



Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40 -111
Regulation title	Standards for Licensed Family Day Homes
Action title	Licensed Family Day Homes Regulation Comprehensive Revision
Date this document prepared	August 19, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The proposed regulatory action is a joint action to repeal the existing regulation, 22 VAC 40-110, and establish a new regulation, 22 VAC 40-111, for licensed family day homes. The new regulation includes additional requirements in the following areas: care and services for children; staff qualifications, training, and responsibilities; management of the family day home; physical plant features; disclosure of information to parents; and emergency preparedness.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

The final regulation Standards for Licensed Family Day Homes (22 VAC 40-111) was approved by the State Board of Social Services on August 19, 2009.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The following sections of the Code of Virginia (Code) are the sources of legal authority to promulgate this regulation: § 63.2-217 (mandatory) states that the State Board of Social Services (Board) shall adopt regulations as may be necessary or desirable to carry out the purpose of Title 63.2 of the Code; § 63.2-1721 (mandatory) requires applicants for family day home licensure to undergo a background check; § 63.2-1734 (mandatory and discretionary) addresses the Board's overall authority to promulgate regulations for licensed family day homes and specifies content areas to be included in the regulation.

The promulgating entity is the Board.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The new regulation replaces the current regulation, Minimum Standards for Licensed Family Day Homes. The goal of the regulation is to protect the health, safety and well-being of children receiving care in licensed family day homes. The last major revision of the regulation for licensed family day homes occurred in 1993.

A periodic review of the Minimum Standards for Licensed Family Day Homes was conducted in 1999. The periodic review resulted in a recommendation to repeal the current regulation and promulgate a new regulation to improve readability and clarity. In addition to incorporating the majority of the 1993 revisions, this new regulation adds requirements that are based on changes in law and practice.

This regulatory action has several purposes. The first purpose is to ensure the safety of children receiving care in licensed family day homes. The second purpose is to ensure parents' rights to make decisions about the care and to be informed of issues with their children in licensed family day homes. The third purpose is to facilitate social, emotional, and intellectual development of children in care in licensed family day homes.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The proposed regulatory action adds requirements related to operational responsibilities of the licensee; capacity; general record keeping; children's and caregivers' records; written information for parents; proof

of a child's age and identity along with a record of the child care and schools the child has attended; immunizations for children; qualifications and requirements for providers, substitute providers, and assistants; tuberculosis (TB) screening; physical or mental health evaluations for caregivers or household members; orientation for substitute providers and assistants; annual training for caregivers; medication administration training; home maintenance; hanging and drowning hazards; firearms; sharp objects; body fluids contamination; machinery; heaters; telephones; water supply; heating and cooling; electric fans; stairs; decks and porches; doors and windows; animals; smoking and prohibited substances; play equipment and materials; indoor slides and climbing equipment; outdoor play area and equipment; rest areas; cribs; linens; infant and toddler equipment; play pens; supervision; programs; sleeping and resting; daily activities for infants and toddlers; television, computers, videos, and video games; time out; forbidden actions; parent notifications; swimming and wading activities; exclusion of sick children; hand washing; diapering and toileting; medication; sunscreen, diaper ointment, and insect repellent; first aid supplies; emergency radios; emergency information; posted telephone numbers; emergency preparedness and response plans; evacuation, relocation, and shelter-in-place procedures; emergency response drills; reports to the Department of Social Services (DSS) and to the health department; meals and snacks; drinking water and fluids; feeding infants; special feeding needs; transportation, drivers, and vehicles; and nighttime care.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

The primary advantage of the proposed regulatory action is the increased protection it provides to children receiving care in licensed family day homes. The proposed regulatory action strengthens the standards to provide much needed improvements for the care and services provided to children in family day homes; for qualifications, training, and responsibilities of staff who provide the care and services; for management of the operation of the home; and for the building and grounds where care is provided.

When requirements are strengthened, there must be a balance between the benefit and associated costs. In the proposed regulatory action, a fair and reasonable balance has been achieved.

The advantage to the Commonwealth is that the proposed regulatory action reflects the importance that Virginia places on ensuring adequate child care for children of working parents. There are no disadvantages to the Commonwealth.

It is possible that family day homes will pass along some of the increased costs to parents.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
----------------	-------------------------------	------------------	----------------------

22 VAC 40-111-10. Definitions.	Definition of “sanitized” referred to the use of a disinfectant solution.	Definition refers to the use of a sanitizing solution.	Guidance from the Virginia Department of Health on the difference between disinfecting and sanitizing.
22 VAC 40-111-40 Capacity	Criteria for establishing capacity at a family day home included the provider’s responsibility to supervise children 13 years of age or older, available space, provider’s responsibility to care for an individual needing special care and attention, or a special order limiting capacity.	Deleted provider’s responsibility to supervise children 13 years of age or older from the criteria.	Public comment
22 VAC 40-111-70. Written information for parents.	Written information to parents to include the requirement for the child to be age appropriately immunized.	Changed wording to “adequately immunized.”	To match wording on immunization requirements found in the Code.
22 VAC 40-111-80 Proof of age and identity	Contained list of acceptable documents to verify a child’s age and identity.	Added child identification card issued by the Virginia Department of Motor Vehicles to the list.	Clarification; consistency with regulations for other licensed child welfare programs.
22 VAC 40-111-90 Immunizations for children	Contained immunization requirements for children attending a family day home.	Deleted the specific requirements for immunization.	Advice from the Office of the Attorney General that the Board does not have statutory authority to promulgate regulations on immunizations.
22 VAC 40-111-100. Physical examinations for children.	Contained physical examination requirements for children attending a family day home.	Added that for a school age child, the exam is to be completed with 24 months of enrollment, but a copy of the physical required for entrance into a Virginia public kindergarten or elementary school is acceptable. Minor technical changes also made.	Requirement is in current regulation and was inadvertently omitted from proposed regulation. Allowing the copy of the school entrance physical is consistent with regulations for other licensed child welfare programs.
22 VAC 40-111-120. Caregiver records.	Required caregivers records to contain identifying information and references.	Identifying information and references are required only for an assistant and substitute provider, not the provider. References are not required for a substitute or assistant who is the parent, spouse, sibling, or child of the provider.	Clarification Public comment
22 VAC 40-	Listed organizations from	Expanded the list of acceptable	Consistency with

111-140. Qualifications and requirements for providers and substitute providers.	which providers and substitute providers could obtain first aid and cardiopulmonary resuscitation (CPR) certification.	training organizations for first aid and CPR.	regulations for other licensed child welfare programs.
22 VAC 40-111-150. Qualifications and requirements for assistants.	Assistants were required to have first aid and CPR certification. Listed organizations from which assistants could obtain first aid and CPR certification.	Only adult assistants who are left alone with children are required to have first aid and CPR certification. Expanded the list of acceptable training organizations for first aid and CPR.	Public comment Consistency with regulations for other licensed child welfare programs.
22 VAC 40-111-160. Attributes for household members.	Required household members 14 years of age and older, including relatives and lodgers, to display emotional stability, be of good character and reputation, and meet the requirements of the background check regulation.	Changed requirements to apply to individuals 14 years of age and older who reside in the family day home.	Clarification
22 VAC 40-111-210. Annual training	Listed areas that must be covered in annual training.	Added annual emergency preparedness training as this is required by another section of the proposed regulation.	Clarification
22 VAC 40-111-220. Medication administration training.	Required providers who administer non-prescription medication to children to have completed a department-approved training	Require providers who administer non-prescription medication to children to have completed a Board of Nursing-approved training.	DSS does not have the resources to develop a training program and the Board of Nursing has one approved and available.
22 VAC 40-111-230. Documentation of education and training.	Providers were required to maintain documentation of each caregiver's first aid and CPR certification	Since the regulation is amended so as not to require all assistants to have first aid and CPR certification, the wording was changed to require documentation of applicable first aid and CPR certification.	Clarification
22 VAC 40-111-240. Home maintenance.	Areas and furnishings of the family day home, inside and outside, must be maintained in a clean, safe, and operable condition. Unsafe conditions were listed.	The presence of poisonous plants, tripping hazards, and unstable equipment, furniture and other equipment that a child could pull down on himself were added to the list of unsafe conditions.	Some of these hazards are included in the current regulation and were inadvertently omitted from the proposed regulation others were added for consistency with regulations for other licensed child welfare programs.

<p>22 VAC 40-111-250 Hanging, suffocation, and strangulation hazards</p>	<p>Tablecloths were identified as a strangulation hazard for children.</p>	<p>Tablecloths were deleted as a strangulation hazard and ropes were added.</p> <p>Added requirement that latex gloves, balloons, and plastic bags be inaccessible to children under five years of age.</p>	<p>Public comment.</p> <p>Plastic bags are prohibited in the current regulation. Others were added for consistency with safety regulations for other licensed child welfare programs.</p>
<p>22 VAC 40-111-310. Machinery.</p>	<p>Machinery such as power tools and lawnmowers shall be inaccessible to children.</p>	<p>Added machinery in operation shall be inaccessible to children.</p>	<p>Clarification</p>
<p>22 VAC 40-111-320. Fire safety and shock prevention.</p>	<p>Small electrical appliances must be unplugged when not in use and placed in an area inaccessible to children.</p> <p>Electrical outlet safety covers shall be placed on unused outlets that are accessible to children.</p>	<p>Deleted requirement that unused small appliances be placed in an area inaccessible to children.</p> <p>Safety covers must be placed on unused outlets and surge protectors accessible to children under five years of age.</p>	<p>Public comment</p> <p>Consistency with safety regulations for licensed child day centers.</p>
<p>22 VAC 40-111-450. Doors and windows.</p>	<p>Closet door latches must be such that children can open the door from inside. Bathroom door locks must permit opening of the locked door from inside.</p>	<p>Closet doors <u>with</u> latches must be such that children can open the door from inside. Bathroom doors <u>with</u> locks must permit opening of the locked door from the outside.</p>	<p>Clarification based on public comment (providers thought they would be required to have locks and latches on doors). Training and technical assistance will also be provided on these requirements.</p>
<p>22 VAC 40-111-460. Animals.</p>	<p>Monkeys, ferrets, turtles, iguanas, birds of the parrot family, venomous and constricting snakes must not be in areas accessible to children.</p> <p>Animal litter boxes, toys, food dishes, and water dishes must not be located in areas accessible to children.</p>	<p>Deleted references to turtles, iguanas, and venomous and constricting snakes and added reptiles and wild and dangerous animals to the list.</p> <p>Animal litter boxes, toys, food dishes, and water dishes must not be accessible to children.</p>	<p>Clarification and consistency with safety regulations for licensed child day centers.</p> <p>Clarification based on public comment.</p>
<p>22 VAC 40-111-530. Linens.</p>	<p>Required crib sheets to be washed daily.</p>	<p>Deleted this requirement.</p>	<p>Public comment</p>
<p>22 VAC 40-111-560. Supervision.</p>	<p>Contained requirements for sight and sound supervision of infants and toddlers when they</p>	<p>Reworded section to make compliance with requirement more feasible for providers.</p>	<p>Public comment</p>

	were awake.		
22 VAC 40-111-660. Swimming and wading activities.	The home must obtain written permission from the parent of each child who participates in swimming or wading activities.	The home must obtain the permission once each year and not before every swimming activity.	Clarification based on public comment.
22 VAC 40-111-680. Hand washing.	Caregivers shall ensure children wash their hands at certain times.	Changed to require that children's hands are washed at certain times including after diapering.	Clarification
22 VAC 40-111-700. General requirements for medications.	Medications that are not picked up by the parent within 14 days will be disposed of by the family day home by either dissolving the medication down the sink or flushing it down the toilet.	Changed to require that medications not picked up within 14 days be taken to a pharmacy for proper disposal.	Addressed environmental pollution concerns.
22 VAC 40-111-750. Topical skin products.	When sunscreen, diaper ointment, and insect repellent are used certain requirements must be met including parental permission, product must be in original container labeled with the child's name, manufacturer's instruction to be followed, and parents informed of adverse reactions to the product.	Reworded the section to address topical skin products. Added diaper lotion and oral teething medication to this list. Changed to require child's name be on the product container only if the item was supplied by the parent. Added that sunscreen must have a minimum sunburn protection factor (SPF) of 15.	Clarification based on guidance from the Virginia Department of Health.
22 VAC 40-111-760. First aid and emergency medical supplies.	First aid kit required to contain activated charcoal preparation.	This requirement was deleted except for homes located more than one hour's travel time from a health care facility.	Public comment; guidance received from Virginia Poison Center.
22 VAC 40-111-800.	Listed the scenarios that the emergency preparedness and response plan had to address.	Changed the scenarios from natural disasters, chemical spills and intruder to fire, severe storms, flooding, tornados and loss of utilities.	Change based on the Federal Emergency Management Agency's analysis of past disasters in Virginia.
22 VAC 40-111-830. Emergency response drills.	Documentation of emergency evacuation and shelter-in-place drills had to include certain information.	Reworded the regulation so the required documentation matches that of the documentation required by the Virginia Fire Prevention Code for fire drills.	Clarification that enables providers to simultaneously meet the documentation requirements of both the Fire Prevention Code and the family day home regulation.
22 VAC 40-111-870. General requirements	Specified times during which meals and snacks were to be served.	Deleted specific times and substituted a requirement for meals and snacks based on the home's hours of operation.	Clarification and consistency with licensed child day center regulations.

for meals and snacks.	Required that food be prepared, stored and transported in a clean and sanitary manner.	Added that food is also to be served in a sanitary manner.	Clarification
22 VAC 40-111-940.	Required that leftover food be discarded from individual plates following a meal or snack.	Deleted redundant requirement (also required in 22 VAC 40-111-870).	Correction.

None of the changes made since the proposed stage will result in increased requirements for licensed family day home operators. The changes were made for clarity or to decrease requirements based on public comment.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
Parent	22 VAC 40-111-10. Definitions Sanitized – chemical agents used for sanitizing can be harmful to children’s sensitive skin. Hypoallergenic solutions should be used or the sanitizing solutions should be thoroughly rinsed off surfaces.	“Caring for Our Children - National Health and Safety Performance Standards: Guidelines for Out-of-Home Care” by the American Academy of Pediatrics, American Public Welfare Association, National Resource Center for Health and Safety in Child Care, and the Maternal and Child Health Bureau recommends certain areas be sanitized (with bleach and water or a hospital grade germicide) to reduce the spread of infectious diseases in child care settings. If a child is allergic or sensitive to the sanitizing solutions, the family day home may request an allowable variance to not sanitize the areas to which that child is exposed.
Five providers, one assistant provider, three provider associations, four parents, one “concerned citizen”	22 VAC 40-111-30. Operational responsibilities Disagree with requirement for provider to give evidence of financial responsibility.	This is a requirement of §§ 63.2-1702 and 63.2-1707 of the Code for licensure as a child welfare agency.
Four providers, one assistant provider, three provider associations, four parents, one “concerned citizen”	22 VAC 40-111-40. Capacity Disagree with requirement to restrict capacity of family day homes based on the provider’s supervising children over the age of 13 or caring for an individual with a serious physical, emotional, or	The regulation was amended to delete the provider’s responsibility to supervise a child over the age of 13 from the criteria to be considered when establishing capacity.

	behavioral condition.	
Four providers, one provider association	22 VAC 40-111-50 A. General record keeping Disagree with requirement for the home to keep a written record of attendance each day.	Having a list of which children are present in the family day home each day is essential to emergency preparedness. A sign in/sign out sheet is not required. If the provider was unavailable due to illness or injury, emergency responders would have no way of accounting for all children in care.
Two providers, three provider associations Fairfax County Office for Children Community Education and Provider Services (CEPS)	22 VAC 40-111-50 E. General record keeping Disagree with requirement for the home to keep records on children, caregivers, and household members for two years. Points out that the United States Department of Agriculture [USDA], Child and Adult Care Food Programs require children's records to be kept for three years.	Family day homes are the only licensed child or adult care program that has not been required to retain records. This has proved to be problematic during appeal processes. Generally licensed child and adult care programs have a two-year record retention requirement. Providers who participate in the USDA Food Program would have to abide by the USDA record retention requirement.
One provider, one provider association	22 VAC 40-111-60 B 2 d. Children's records Disagree with requirement for child's record to contain information on two people to be contacted in case of emergency if parent cannot be contacted.	Emergency preparedness authorities advise that emergency contact information for an additional individual be available because an emergency situation may impact the availability of the parent and the first emergency contact person. Ideally, the second emergency contact person would be a person located out of the area.
Provider association	22 VAC 40-111-60 B 10. Children's records Suggests a clarification that parent's written authorization for a child to participate in swimming or wading activities just needs to be obtained once and not each time a child participates in these activities.	Agency agrees. Clarification made to standard.
Provider	22 VAC 40-111-70 A 2. Written information for parents Questions whether the requirement to provide parents with a schedule of fees and payment plans means that the provider has to disclose all the rates for children of different ages.	Providers will be required to give parents written information on the cost of care and the frequency and amount of payment expected for their child and not for all children in care.
Three providers, three provider associations	22 VAC 40-111-70 A 3. Written information for parents Disagree with requirement to provide parent with written information on the home's check in	Providers will not be required to maintain a sign-in and sign-out record. Parents must be advised of acceptable drop-off and pick-up procedures for their child and must be advised that a child may be released only to his custodial parents or to designated individuals.

	and check out procedures.	
Three providers, one assistant provider, three provider associations, four parents, one "concerned citizen"	22 VAC 40-111-70 A 5. Written information for parents Disagree with requirement to disclose to parents whether or not the home has liability insurance of at least \$100,000 per occurrence and \$300,000 aggregate on the family day home operation.	This is required by § 63.2-1809 1 A of the Code and has been in effect for family day homes since July 1, 2007.
One provider, one provider association	22 VAC 40-111-70 A 7. Written information for parents Disagree with requirement for written information to parents to include a requirement for the parent to inform the provider within 24 hours if the child or any family member develops a reportable communicable disease because providers cannot require parents to report.	To prevent the spread of communicable diseases, it is important for parents to advise the provider if the child or his family member develops a reportable communicable disease. Providers only need to advise parents of this expectation and are not required to enforce parental reporting.
One provider, one provider association	22 VAC 40-111-70 A 8. Written information for parents Disagree with requirement for written information to parents to include a requirement for the child to be age-appropriately immunized. This would require providers to know the required immunizations.	This requirement is to advise parents of the requirements of § 32.1-46 of the Code for immunization of children attending family day homes. Providers would not need to advise parents of what immunizations were needed – that would be up to the child's physician.
One provider, one provider association	22 VAC 40-111-70 A 11. Written information for parents Disagree with requirement for written information to parents to include the home's general daily schedule – prohibits flexibility.	Providing a general daily schedule does not limit flexibility, but lets parents know the usual activities of their child in the family day home.
Two providers, three provider associations	22 VAC 40-111-70 A 16. Written information for parents Disagree with requirement for written information to parents to include provisions of the home's emergency preparedness plan. Too much paperwork.	The agency's position is that parents have the right to know how the provider plans to communicate with parents about an emergency, where the provider plans to take their child in case an emergency relocation is necessary, and how the provider plans to reunite children with their parents.
One provider, one provider association	22 VAC 40-111-70 A 19. Written information for parents Disagree with requirement for written information to parents to include Licensing's website address in order to obtain information on the home's compliance with the	The agency's position is that parents have the right to know whether or not the provider is complying with Licensing requirements. The agency will ensure a model form with this information is available for providers' use.

	regulations. Too much paperwork.	
Provider	22 VAC 40-111-80. Proof of age and identity Documentation of citizenship is too difficult to obtain.	Proof of citizenship is not required.
Provider and provider association	Disagree with requirement to list previous day care programs and schools child has attended.	This requirement of § 63.2-1809 of the Code has been in effect since July 1, 1998.
Two providers and one provider association	Disagree with requirement for provider to notify law enforcement within seven days if the parent does not provide verification of child's age and identity and names of previous day care programs and schools child has attended.	This requirement of § 63.2-1809 of the Code has been in effect since July 1, 1998.
Two providers	22 VAC 40-111-90 A. Immunizations for children Disagree with requirement that a child be age-appropriately immunized before attending a family day home. Doctors often are not cooperative in providing the immunization forms to parents and providers do not know immunization requirements.	The regulation has been amended to require the provider to have documentation that each child has "adequate immunizations." The Code at § 32.1-46 A requires parents to have their children adequately immunized. Requiring documentation of immunizations ensures that a child entering a family day home is protected against certain diseases.
One provider and one provider association	22 VAC 40-111-90 E. Immunizations for children Disagree with requirement for a family day home to obtain documentation of additional immunizations once every six months for a child under the age of two years and once between a child's fourth and sixth birthdays. This is too much paperwork for providers and parents.	This is a requirement in the current family day home regulation that has been in effect since December 15, 1993. This schedule of immunizations parents are to obtain for their children is required by § 32.1-46 of the Code.
Provider	22 VAC 40-111-120. Caregiver records Disagrees with requirement for providers to obtain references for employees.	The regulation has been amended so that the provider does not have to obtain references on an employee who is the spouse, parent, sibling, or child of the provider.
Fairfax County Office for Children	22 VAC 40-111-140 B 1 – Qualifications and requirements for providers and substitute providers. Disagrees with requirement for high school completion or equivalent because some people are not able	The agency's position is that since no pre-service training in business management is required for providers, they need to at least

Community Education and Provider Services (CEPS)	to obtain a high school diploma or equivalent. Suggests experience be accepted in lieu of this requirement.	have had a basic high school education to enable them to adequately manage the operation of the family day home business.
Provider association	“Isn’t a high school education good enough? Some people...did not have the opportunity to attend college.”	The proposed regulation requires providers and substitute providers to have a high school education or equivalent. It does not require any college credit.
Provider	“It sounds like providers will have to have a Child Development Associate (CDA) credential or Associates in Early Childhood Development to work with children.”	The proposed regulation does not require providers to have a CDA or Associates Degree in Early Childhood Development.
One provider and one provider association	22 VAC 40-111-140 B 2 – Qualifications and requirements for providers and substitute providers. Disagree with requirement that providers and substitute providers have three months of programmatic experience.	“Caring for Our Children - National Health and Safety Performance Standards: Guidelines for Out-of-Home Care” by the American Academy of Pediatrics, American Public Welfare Association, National Resource Center for Health and Safety in Child Care, and the Maternal and Child Health Bureau states that supervision of children must be overseen by a person who has experience and education to properly care for them. The agency’s position is that since no pre-service training in child development or health management is required for providers, they need to at least have had some experience in caring for children in group settings.
One provider association	22 VAC 40-111-140 C – Qualifications and requirements for providers and substitute providers. Disagrees with requirement that substitute providers be used no more than 240 hours per calendar year because illness may require a provider to be away from the home longer than that.	A provider has the primary responsibility for providing care to children. An absence of more than 240 hours (a total of 20 12-hour days) per year is sufficient to allow the provider vacations, time off for temporary illness, etc. If the provider has a prolonged illness, procedures are in place for requesting a waiver (allowable variance) if this requirement presents a hardship for the provider.
Two providers, one assistant provider, three provider associations, four parents, one “concerned citizen”	22 VAC 40-111-150 A 1 – Qualifications and requirements for assistants Disagree with raising the minimum age for an assistant from 14 to 16 years of age.	The current (and proposed) supervision requirements allow an assistant in a family day home to be responsible for the care of four infants, or five toddlers, or eight preschoolers. The agency’s position is that typically a 14-year old does not have the maturity necessary to assume responsibility for that many children.
Fairfax County	Suggest that assistants should be	The agency’s position is that raising the age

Office for Children Community Education and Provider Services (CEPS)	18 years of age or older, not 16 as proposed.	limit for an assistant to 18 would make it too difficult for providers to find assistants.
One provider and one provider association	22 VAC 40-111-150 A 2 – Qualifications and requirements for assistants Disagree with requirement for assistants to have cardiopulmonary resuscitation (CPR) certification. It is not necessary as long as the provider (with the certification) is present in the family day home.	Regulation amended to require one adult caregiver with CPR certification to be with children in care at all times.
One provider	22 VAC 40-111-150 A 3 – Qualifications and requirements for assistants Disagrees with requirement for assistants to have first aid certification.	Regulation amended to require one adult caregiver with first aid certification to be with children in care at all times.
One provider association	22 VAC 40-111-150 C – Qualifications and requirements for assistants Disagrees with requirement that an assistant 18 years of age or older not be left alone with children for more than two hours per day as it would not allow time for a provider to go to the doctor.	The agency’s position is that an individual who is supervising children alone should have the education and experience to meet the needs of the children in care and to operate the business of the family day home. The regulation does not require an assistant to have any education or experience. If a provider is absent from the family day home more than two hours, it is reasonable to require a substitute provider who meets the qualifications of the provider to be present.
Fairfax County Office for Children Community Education and Provider Services (CEPS)	22 VAC 40-111-170 – Initial tuberculosis screening for caregivers and household members Suggests requiring the screening form to have been completed within the last 90 days instead of within 30 days proposed in the regulation.	The Virginia Department of Health recommends that the screening be done as close to the date of hire as possible.
Fairfax County Office for Children Community Education and Provider Services (CEPS)	22 VAC 40-111-180 – Subsequent tuberculosis screening for caregivers and household members Supports proposed regulation to require biannual tuberculosis screening.	Agency agrees that this requirement that is in the current family day homes regulation should remain in the proposed regulation.
Provider	Disagrees with requirement	This is not a new requirement for licensed

Provider	Questioned if college courses would count toward the required annual training hours.	Yes, college courses would be counted. See response above.
Provider	Disagrees with requirement for experienced providers to have more than six hours of annual training and suggests more on-line training be available.	Research, including that of the National Scientific Council on the Developing Child, indicates that quality early education programs that include highly skilled caregivers can enhance a child's cognitive and social development and can help provide the foundation for later school achievement, economic productivity, and responsible citizenship. See response above in reference to on-line training.
Fairfax County Office for Children Community Education and Provider Services (CEPS)	Supports increasing annual training hours. "Research confirms education and training are directly linked to quality child care."	Agency agrees.
Provider	Suggests the number of required annual training hours be based on the provider's level of education. Those with master's degrees in related fields should be required to have eight hours of annual training, those with bachelor's degrees be required to have 10, those with less than a bachelor's degree, be required to have 16 hours.	A provider's having a master's or bachelor's degree does not ensure the individual is up to date on current standards and practices.
Fairfax County Office for Children Community Education and Provider Services (CEPS)	22 VAC 40-111-220 – Medication administration training Supports proposed regulation. The cost of training is high. The safety of children is at risk if the caregiver is not knowledgeable in medication administration. Errors in medication administration may be fatal to children.	Agency agrees that the safety of children is protected by requiring caregivers who administer medications to have training to do so. To reduce the cost of training, a portion of the training is now available on-line at no cost to providers.
Provider	22 VAC 40-111-240 – Home maintenance Disagrees with "unsafe conditions" in the home including head entrapment hazards. Provider states that the divider between her kitchen and family room could be identified as a head entrapment hazard.	Inspectors will be trained and given technical assistance on the interpretation of this standard.
	22 VAC 40-111-250 – Hanging and strangulation hazards	

Provider	Disagrees with tablecloths being included as a strangulation hazard.	Agency agrees that tablecloths do not represent a strangulation hazard. Regulation amended.
Provider	Asks if hanging and strangulation hazards include curtains.	Curtains would not be considered a strangulation hazard, only the cords associated with the curtains would be considered hazardous.
Fairfax County Office for Children Community Education and Provider Services (CEPS)	22 VAC 40-111-260 – Drowning hazards. Supports regulation. “The health and safety of children would be reinforced by the provision of barriers and guidelines recommended.”	Agency agrees.
Three provider associations and one provider	Disagree with proposal that wading pools not be used by children who are not potty trained. They suggest that children wearing swimming diapers be allowed in the pool.	Having a child wear a swimming diaper will not protect the water in the pool from fecal contamination and the transmission of infectious diseases since these pools have no filtration system and are not chemically treated.
Provider	22 VAC 40-111-270 – Firearms and ammunition Feels it is an unnecessary expense to require firearms and ammunition to be stored in a locked container rather than a locked closet.	The proposed regulation requires firearms and ammunition to be stored in a “locked container, compartment or cabinet.” Keeping ammunition and firearms in a locked closet would be considered keeping them in a locked compartment so would meet the requirements of the regulation.
Provider association	22 VAC 40-111-320 – Fire safety and shock prevention Disagrees with requirement for small electrical appliances to be inaccessible to children when not being used by the provider.	The regulation has been amended to require that the cords from small electrical appliances be inaccessible to children when the appliance is not being used.
Three provider associations and three providers	22 VAC 40-111-330 – Telephones Disagree with requirement to have a land line telephone.	Emergency preparedness authorities recommend land line telephones because they are more likely to remain operable during an emergency situation.
Provider	22 VAC 40-111-340 – Bathrooms Questions why individually marked cloth towels are not allowed.	There is no guarantee children would not use each others’ cloth towels. Shared cloth towels can transmit infectious diseases.
Two provider associations and one provider	22 VAC 40-111-360 – Garbage Suggests that it be clarified that garbage storage areas means outdoor storage areas.	Current standards have requirements for “refuse storage areas.” Those requirements were not changed in the proposed standards. In the proposed standards, the term “refuse storage areas” was changed to “garbage storage areas” which a more commonly used term. The intent of the regulation is that areas
Provider	Requests clarification for “garbage	

association	storage areas.” Also disagreed with requirement that garbage storage areas be free of odor.	where garbage is stored (not collected as in a trashcan) be free of litter, odor and uncontained waste since children often play near these areas.
Provider association	22 VAC 40-111-370 – Rodents and insects In order to keep water in a bird bath, suggests that “in such condition” be removed from the following requirement: “No home shall maintain any receptacle or pool, whether natural or artificial, containing water in such condition that insects breeding therein may become a menace to public health.” Providers are concerned about inspectors’ interpretation of “in such condition.”	A birdbath with fresh water should not be considered a breeding area for insects. Inspectors will be trained and given technical assistance on the interpretation of this standard.
Provider Fairfax County Office for Children Community Education and Provider Services (CEPS)	22 VAC 40-111-380 – Space Layout of the house to allow for older children and younger children’s play has been difficult to the point that we may have to let our school age children go. Supports the proposed regulation. Adequate space supports children’s healthy growth and development.	The regulation does not contain layout requirements for a home serving school age children. The regulation merely requires adequate space to allow free movement and active play indoors and out. Agency agrees.
Provider association	22 VAC 40-111-410 – Electric fans Clarification needed on how DSS wants portable electric fans to be “securely mounted out of the reach of children.” Almost 100% of portable fans have some type of mesh covering.	A portable fan must not be positioned so that it could fall on a child. While fans may have been manufactured to have the mesh covering, the covering could have been broken or removed.
Three providers, one assistant provider, three provider associations, four parents, one “concerned citizen”	22 VAC 40-111-430 B – Stairs Disagree with proposal to prohibit the use of accordion and pressure mounted gates at stair openings.	“Caring for Our Children - National Health and Safety Performance Standards: Guidelines for Out-of-Home Care” by the American Academy of Pediatrics, American Public Welfare Association, National Resource Center for Health and Safety in Child Care, and the Maternal and Child Health Bureau recommends that accordion and pressure gates not be used as they can cause entrapment in an emergency.
Provider association	22 VAC 40-111-430 C – Stairs	A handrail would not necessarily be considered a guardrail. A guardrail is to be in place to

	<p>Questions whether a handrail on stairs would be considered a “guardrail.” Comments that most homes only have a handrail on one side of the steps, not both.</p>	<p>prevent a child from falling from the open sides of stairs.</p>
<p>Three provider associations, four providers,</p> <p>Fairfax County Office for Children Community Education and Provider Services (CEPS)</p>	<p>22 VAC 40-111-450 – Doors and windows</p> <p>Concerned about the expenses of having to have latches on closet doors that allow children to open the door from inside and having bathroom doors locks that permit opening of the locked door with a readily accessible opening device.</p> <p>Supports the proposed regulation. “The regulation supports the safety of children within the facility.”</p>	<p>It was not the intent of the regulation that all closet and bathroom doors had to have latches and locks, but where latches and locks exist they have to meet certain requirements. The wording in the regulation was changed to clarify.</p> <p>Agency agrees.</p>
<p>Two provider associations</p>	<p>22 VAC 40-111-460 I – Animals</p> <p>Object to proposal prohibiting animal litter boxes, toys, food, and water dishes from being located in areas accessible to children. They state that the homes are not large enough to keep pet’s water and food in an area not accessible to children. The associations suggest the regulation state that children should not have access to the pet’s food and water and must be supervised.</p>	<p>Agency agrees. Regulation amended.</p>
<p>Two provider associations</p>	<p>22 VAC 40-111-460 J – Animals</p> <p>Disagree with requirement to clean the area soiled by animal excrement because there is no way to clean a backyard.</p>	<p>Regulation amended to specify that indoor areas soiled by animal excrement are to be cleaned.</p>
<p>Provider</p>	<p>22 VAC 40-111-500 – Outdoor play area and equipment</p> <p>States that if a padded surface should be applied to swing sets other than sand, there should be grants provided for that purpose.</p>	<p>The regulation has no requirement for padded surfaces to be applied to swing sets.</p>
<p>Provider</p>	<p>22 VAC 40-111-500 B – Outdoor play area and equipment</p> <p>Disagrees with requirement that the highest climbing rung or platform or</p>	<p>This requirement is based on recommendations of the U.S. Consumer Product Safety Commission.</p>

	outdoor climbing equipment or top of slide not exceed four feet for preschool children.	
Provider	22 VAC 40-111-520 A – Cribs States that a child should be able to stay in a crib past 12 months of age.	The standards do not prohibit a child older than 12 months using a crib.
Provider association	22 VAC 40-111-520 E – Cribs Requests clarification on prohibition of crib bumper pads so that providers may be allowed to use “breathable bumper” which prevents suffocation.	The American Academy of Pediatrics, Health Canada, National Center for Health and Safety in Child Care, the Consumer Product Safety Commission and the First Candle/National Sudden Infant Death Syndrome (SIDS) Alliance recommend that to reduce the risk of crib death, bumper pads not be used.
Provider	22 VAC 40-111-530 A – Linens Expresses concern about the requirement that children other than infants have linens including a top cover. Some parents do not want toddlers to have a blanket for fear of crib death.	A single blanket with no filling (such as is in a comforter) does not pose a suffocation risk.
Three providers and three provider associations	22 VAC 40-111-530 D – Linens. Object to requirement that crib sheets be washed daily.	Agency agrees. Regulation amended.
Provider	22 VAC 40-111-530 F – Linens Requests clarification that the prohibition on the use of quilts and comforters for infants does not include a prohibition on the use of a top sheet or light blanket.	This will be clarified in training and technical assistance.
Four providers, one assistant provider, three provider associations, four parents, one “concerned citizen” Fairfax County Office for Children Community Education and Provider Services (CEPS)	22 VAC 40-111-560 B – Supervision Disagree with requirement that when awake, infants and toddlers shall always be within sight and sound of a caregiver. Having children always within sight and sound is not realistic. Suggest the requirement be changed to require sight <u>or</u> sound supervision. Supports the proposed regulation. A caregiver is able to maintain a safe environment for older children by being aware of the children’s activities through sound or sight considering the physical environment as well as the potential	Agency agrees. Regulation amended.

	<p>hazards, dependent on the ages of the children.</p>	
<p>Two provider associations and two providers</p>	<p>22 VAC 40-111-570 – Determining need for additional caregiver</p> <p>Disagrees with the deletion of the exception in the current standards that allows the point maximums for one age group to be exceeded for no more than one child up to one month from the date of the child's enrollment during transitional periods when there is turnover in children receiving care and when the ages of the child leaving and the child entering care do not match.</p>	<p>The agency's position is that child-to-staff ratios must be maintained at all times to ensure the safety of children.</p>
<p>One provider association</p>	<p>22 VAC 40-111-600 B – Daily activities for infants and toddlers</p> <p>Disagrees with requirement that infants and toddlers not spend more than 30 minutes of consecutive time during waking hours (except mealtimes) confined in a piece of equipment such as a crib, high chair, play pen, etc. without an intervening time period between confinements of at least one hour. Suggests that these lengths of time be at the discretion of the provider.</p>	<p>This requirement ensures infants and toddlers freedom of movement that is essential for physical and cognitive development.</p>
<p>Fairfax County Office for Children Community Education and Provider Services (CEPS)</p>	<p>22 VAC 40-111-610 – Televisions, computers, videos, and video games</p> <p>Supports the proposed regulation. The regulation supports the American Academy of Pediatrics. The recommended time for children to engage in these activities is less than 2 hours per day.</p>	<p>Agency agrees.</p>
<p>Fairfax County Office for Children Community Education and Provider Services (CEPS)</p>	<p>22 VAC 40-111-650 – Parent notifications</p> <p>Supports the proposed regulation. Good business practice and it will limit liability issues.</p>	<p>Agency agrees.</p>
<p>Provider</p>	<p>22 VAC 40-111-650 C – Parent notifications</p> <p>Requests clarification about whether the notice to parents when a substitute provider will be used is to be written or verbal and what to do in extreme emergencies when</p>	<p>The proposed regulation does not require that the provider provide written notification to parents when a substitute will be used, only that the parent be notified.</p> <p>22 VAC 40-111-800 A 3 requires the home to have an emergency preparedness plan that includes provisions for emergency backup</p>

	prior notice cannot be given.	care. 22 VAC 40-111-70 A 16 requires the provider to give the parents written information on the home's emergency preparedness plan. This will be clarified in training and technical assistance.
One provider and one provider association	22 VAC 40-111-660 B – Swimming and wading activities Requests clarification that parent's written authorization for swimming or wading may be obtained once per year or per length of contract and not have to be obtained each time the child participates in these activities.	Agency agrees. Regulation amended.
Provider	22 VAC 40-111-660 E – Swimming and wading activities Disagrees with requirements for a minimum of two caregivers being present and for an individual with at least basic water rescue certification to be on duty at all times one or more children are in water more than two feet deep. States that these requirements should be based on the ages of the children in the water.	The agency's position is that these requirements are necessary to ensure the safety of children in water over two feet deep.
Provider	22 VAC 40-111-670 – Exclusion of sick children Suggests that guidance be added as to when a child must be symptom free before returning to care.	A child may return to the family day home when he no longer has the symptoms that require exclusion as specified in 22 VAC 40-111-670.
Two provider associations and two providers	22 VAC 40-111-680 – Hand washing Request that types of allowable liquid soaps be specified since some liquid soaps warn to keep them out of the reach of children	This will be clarified in training and technical assistance.
Two provider associations and two providers	22 VAC 40-111-690 – Diapering and toileting Recommend that disinfecting wipes may be used to sanitize the diapering surface.	Disinfecting wipes may not provide enough sanitizing solution to sanitize the diapering surface. According to guidance provided by the Virginia Department of Health, to ensure an adequate amount of sanitizing solution is applied, the surface must be sprayed or dipped into the solution.
One provider and one provider association	22 VAC 40-111-730 C – Storage of medication Request clarification of how medication stored in a refrigerator	The proposed regulation does not require that refrigerators where medications are stored must be locked. Medications can be stored together in a plastic container in the refrigerator or in a drawer where food is not stored. The

	can be stored together in a container or in a clearly defined area away from food. Family day homes have one refrigerator with no lock.	intent is to prevent unintentional poisoning when medication is mistaken for food or drink.
Provider	22 VAC 40-111-760 – First aid and emergency medical supplies Since the Center for Poison Control has ruled that activated charcoal is not to be used, why it is still included in the required items for a first aid kit?	At the recommendation of the Virginia Poison Center, the regulation has been amended to only require family day homes located in remote areas to have activated charcoal available.
Fairfax County Office for Children Community Education and Provider Services (CEPS) One provider association and one provider	22 VAC 40-111-770 – Emergency flashlights and radios Supports the proposed regulation. State that a weather band radio will cost from \$55 to more than \$100, not just \$15 as suggested by DSS.	Agency’s research found weather band radios available from \$9.00 up.
Provider	22 VAC 40-111-780 – Emergency information Disagrees with proposed requirement for providers to annually review for correctness a child’s emergency contact information. Feels it is too much paperwork.	It is essential for providers to have up-to-date information on parents’ whereabouts in case of emergency. The annual review ensures the provider has the correct contact information for parents.
Provider	22 VAC 40-111-810 – Evacuation and relocation procedures Disagrees with requirement for evacuation procedures to include methods to move children to a relocation site. Feels this would be impossible because the provider could not evacuate all the children in her one car.	The provider is responsible for the safety of children in care. The purpose of an emergency preparedness plan is for the provider to prepare for emergencies including moving the children to a safe location, if necessary. Having arranged for family, neighbors, parents, etc. to help with the emergency relocation would be part of the plan.
Two provider associations and two providers	22 VAC 40-111-830 A – Emergency response drills State that emergency response drills seem to be a duplication of monthly fire drills and ask if they can be done at the same time.	Having monthly emergency evacuation drills would meet the requirements of the proposed regulation and also the requirements of the Statewide Fire Prevention Code. DSS will have training and technical assistance on these requirements available for inspectors and providers.
Two provider associations and	22 VAC 40-111-830 B– Emergency response drills	The proposed regulation would require providers and children to simulate shelter-in-

two providers	Request clarification of requirement for semi-annual practice of shelter-in-place procedures.	place procedures two times per year. DSS will have training and technical assistance on these requirements available for inspectors and providers.
Three provider associations and two providers	22 VAC 40-111-830 C 3 – Emergency response drills Disagree with having to record weather conditions at the time of emergency response drills as it entails too much paperwork.	This is a requirement of the Statewide Fire Prevention Code for child care facilities.
Provider	22 VAC 40-111-960 E - Feeding infants Disagrees with the requirement for refrigerated baby bottles to be labeled with the date.	“Caring for Our Children - National Health and Safety Performance Standards: Guidelines for Out-of-Home Care” by the American Academy of Pediatrics, American Public Welfare Association, National Resource Center for Health and Safety in Child Care, and the Maternal and Child Health Bureau recommends that bottles of formula or human milk be labeled with the date and discarded after 48 hours if not used (as required by 22 VAC 40-111-960 F).
Two provider	22 VAC 40-111-960 G - Feeding infants Disagree with proposal to prohibit heating baby bottles in a microwave oven.	“Caring for Our Children - National Health and Safety Performance Standards: Guidelines for Out-of-Home Care” by the American Academy of Pediatrics, American Public Welfare Association, National Resource Center for Health and Safety in Child Care, and the Maternal and Child Health Bureau recommends that baby bottles not be heated in a microwave oven due to the danger of burns to infants.
Fairfax County Office for Children Community Education and Provider Services (CEPS)	22 VAC 40-111-980 – Written permission for transportation and field trips Supports the proposed regulation. Parents should be informed when their child leaves the premises.	Agency agrees.
Provider	22 VAC 40-111-1020 – Nighttime care Comments that some cities limit the hours of nighttime operations.	22 VAC 40-111-30 A requires the provider to comply with relevant local laws and regulations.
Provider	22 VAC 40-111-1020 I – Nighttime care Disagrees with requirement that caregivers sleep on the same floor as children in care. Suggests requiring the use of a baby monitor if the caregiver is sleeping on another floor.	“Caring for Our Children - National Health and Safety Performance Standards: Guidelines for Out-of-Home Care” by the American Academy of Pediatrics, American Public Welfare Association, National Resource Center for Health and Safety in Child Care, and the Maternal and Child Health Bureau recommends that children and caregivers be on the same floor level.
GENERAL COMMENTS		

Two parents, one provider, and two provider associations	Family day homes should not have to operate like child day centers.	Issues relating to the regulation’s focus have been taken into account during the review of specific standards. The agency has aimed for consistency in standards across programs, where possible, to ensure equal protection of consumers and to provide for efficient monitoring by Licensing without increasing costs to licensees.
One provider	The only ones who will benefit from the proposed regulations will be child day centers that will be able to charge parents whatever the centers want to charge.	Issues relating to the costs associated with the regulation have been taken into account during the review of specific standards.
Three providers and two provider associations	If the regulations pass, family day home providers will be put out of business creating more unlicensed providers.	See response above.
One provider and two provider associations	Many of the proposed regulations will present a financial hardship.	See response above.
One provider and one provider association	The new regulations contain ambiguous statements that can leave room for individual interpretation.	Issues relating to clarity have been taken into account during the review of specific standards.
Provider association	The proposed regulations require more paperwork which will result in providers having less time to spend with the children.	Issues relating to the regulation’s paperwork burden have been taken into account during the review of specific standards.
Provider association	Suggest the term “family day homes” be changed to “family day care homes.”	The term “family day home” is defined in § 63.2-100 of the Code.
Provider association	States that many, if not most, providers did not see the proposed regulation. The email that was sent was unclear on how to find the proposed regulation.	Costs associated with mailing a notice of the proposed regulation to all licensed family day homes were prohibitive. The agency complied with the requirements of Public Participation Guidelines (22 VAC-40-12).

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current	Proposed new	Current requirement	Proposed change and rationale
---------	--------------	---------------------	-------------------------------

section number	section number, if applicable		
22 VAC 40-110-10 Definitions	22 VAC 40-111-10 Definitions		<p>The following new terms and their meanings are added in order to clarify their use in the body of the regulation: body fluids, cleaned, evacuation, high school program completion or the equivalent, nighttime care, preschool, programmatic experience, relocation, residence, sanitized, serious injury, shelter-in-place, substitute provider, and toddler.</p> <p>The following words and terms and their definitions were deleted: Child Protective Services Central Registry, cooling device, family day home standards, licensee, major accident or major injury, minor accident or minor injury, and ventilating device.</p> <p>The definitions are changed for clarity for the following terms: age-appropriate, child, child with special needs, commissioner, department's representative, family day home, family day home assistant, family day home provider, and physician.</p>
	22 VAC 40-111-30. Operational responsibilities.		<p>Several requirements are added to clarify the duties and expectations of the provider including: being responsible for the day-to-day operation of the home, ensuring compliance with the standards, the terms of the license, and the home's policies that were disclosed to parents; complying with the regulations, General Procedures and Information for Licensure and Background Checks for Child Welfare Agencies. Also added were requirements for providers in the Code including: giving evidence of financial responsibility; ensuring that the home's activities, services, and facilities are conducive to the welfare of children in care; and ensuring that any advertising is not misleading or deceptive.</p>
22 VAC 40-110-110. Capacity	22 VAC 40-111-40. Capacity.	The licensee shall ensure that the total number of children receiving care at any one time does not exceed the maximum licensed capacity of the home. When at least one	To help ensure adequate supervision of children and for consistency of enforcement, added factors that DSS will use in establishing the home's capacity including availability of adequate space, the provider's responsibility to care for another individual who may require

		child receives care for compensation, all children, exclusive of the provider's own children and children who reside in the home, who are in the care and supervision of a care giver shall be included in the licensed capacity.	special attention or care, or the issuance of a special order to limit capacity.
	22 VAC 40-111-50. General record keeping.		<p>For emergency preparedness purposes, added requirements for the family day home to keep a written record of children in attendance each day.</p> <p>To ensure parent's right to information, added requirement that children's records be made available to a child's parent upon request, unless otherwise ordered by the court.</p> <p>For consistency with licensing regulations for other programs and for appeal purposes, added a requirement that records and reports on children, caregivers, and household members required by this chapter be maintained and made accessible to DSS' representative for two years.</p>
22 VAV 40-110-1360. Information.	22 VAC 40-111-60. Children's records.		To help ensure children's safety, to strengthen parent's authority, and to facilitate the inspection process, requirements were added for the provider to maintain the following in the child's record: documentation of the proof of the child's age and identity and the names and addresses of previous child day care and schools; parent's written authorization if the child is to participate in swimming or wading activities; parent's special instructions to the provider including, but not limited to, exception to an infant's sleeping position or exception to an infant's being fed on demand; and the parent's acknowledgement of the annual review of the child's emergency contact information.
22 VAC 40-110-1170. Accident reports.	22 VAC 40-111-70. Written information for parents.		This section was added to strengthen the authority and rights of parents. It incorporates current requirements for written agreements and notifications and adds that parents are to be informed of: the home's operating schedule, telephone number where a message can

<p>22 VAC 40-110-1180. Records.</p> <p>22 VAC 40-110-1360. Information.</p>			<p>be left, fees and payment plans, policies for the administration of medication, children’s check in and check out procedures, whether or not there is liability insurance in effect on the family day home operation (pursuant to § 63.2-1809.1 of the Code), the requirement for paid caregivers to report suspected child abuse and neglect, policy for the provision of food, whether or not there is a pet or animal in the home, provisions of the home’s emergency preparedness and response plan; the notifications the home is required to give parents, termination of care policies, and the address of DSS’ website with a note that the regulation and information on the home can be obtained from the website.</p>
	<p>22 VAC 40-111-80. Proof of age and identity; record of child care and schools.</p>		<p>Added the requirement of § 63.2-1809 of the Code that within seven business days of the child’s first day of attendance at the family day home, the provider shall obtain from the parent:</p> <ol style="list-style-type: none"> 1. Verification of the identity and age of the child; and 2. Name and location of previous day care programs and schools the child has attended.
<p>22 VAC 40-110-1120 Timing and frequency of medical reports</p>	<p>22 VAC 40-111-90. Immunizations for children.</p>	<p>Each child accepted for care shall obtain a physical examination and immunization record by or under the direction of a licensed physician prior to enrollment (as outlined below) or within 30 days after enrollment: 1. Within 60 days prior to enrollment for children six months of age or younger; 2. Ninety days prior to enrollment for children aged seven months through 18 months; 3. Six months prior to enrollment for children aged 19 months through 24 months; 4. Twelve months prior to enrollment for children two years of age through five years of age; and 5. Twenty-four months prior to enrollment for children six years of age and</p>	<p>The proposed regulation requires that before a child may attend the family day home, the provider shall obtain documentation that the child has been adequately immunized according to requirements of § 32.1-46 of the Code and applicable State Board of Health regulations.</p>

		above.	
22 VAC 40-110-1120 Timing and frequency of medical reports	22 VAC 40-111-100. Physical examinations for children.	See above.	Added that for a school age child, a copy of the physical examination required for his entry into kindergarten or elementary school is acceptable documentation.
	22 VAC 40-111-120. Caregiver records.		For emergency preparedness purposes and to facilitate the inspection process, added that the provider maintain a record on each caregiver. For assistants and substitutes that includes: name; address; verification of age; job title; date of employment or volunteering; name, address, and telephone number of a person to contact in an emergency; documentation of two reference checks (for non-relative caregivers hired after the effective date of the regulation), background check results, documentation of arrivals and departures of substitute providers; TB screening; and education and training. For providers, it includes documentation of background checks, TB screening, and education and training.
22 VAC-110-80. First Aid Certification.	22 VAC 40-111-140. Qualifications and requirements for providers and substitute providers.	Providers and substitute providers shall obtain pediatric first aid certification, including rescue breathing and first aid for choking, within six months of licensure or employment or by May 31, 1994, if currently licensed and shall maintain a current pediatric first aid certificate endorsed by or from: 1. The American Red Cross; 2. The American Heart Association; 3. The National Safety Council for First Aid Training Institute; or 4. Have successfully completed, within the past three years, a pediatric first aid course equivalent to the curriculum which has been approved by the State Board of Health. EXCEPTION: A provider	To establish expectations that providers and substitute providers meet certain basic experience requirements prior to being licensed to provide care, requirements are added that providers licensed after and substitute providers employed after the effective date of this regulation have (in addition to first aid certification) documentation of high school completion or equivalent or evidence of having met the requirements for admission to an accredited college or university, have three months of programmatic experience and have current CPR certification. The exception to CPR training for Registered Nurses (RNs) and Licensed Practical Nurses (LPNs) was deleted since nurses may not have had this training. For several years, no first aid training has included rescue breathing so the only way caregivers have been able to comply with the current requirement for training in rescue breathing is to have CPR training. Added organizations from which providers may receive first aid and CPR certification.

		who is a RN or LPN with a current license from the Board of Nursing shall not be required to obtain first aid certification.	To ensure continuity of care and that the provider has the primary responsibility for providing care (according to the definition of "provider"), the use of a substitute is limited to 240 hours per calendar year. A requirement is added for the substitute provider to record and sign the time of arrivals and departures for each day worked.
22 VAC 40-110 -10 Definitions 22 VAC 40-110-650. General.	22 VAC 40-111-150. Qualifications and requirements for assistants.	"Family day home assistant" or "assistant" means an individual who is 14 years of age or older and who helps the family day home provider in the care, protection, supervision and guidance of children in the home. Children shall be supervised by a care giver at all times. Children shall not be left alone in the care of an assistant under 18 years of age while in care.	To ensure job-readiness for assistants and to increase protections for children, the minimum age of an assistant is raised to 16 years. Requirements were added for adult assistants who are left alone with children to have current first aid and CPR certification. Added organizations from which assistants may receive first aid and CPR certification. To protect children, requirements were added that an assistant under the age of 18 must work under the direct supervision of the provider or substitute provider (direct supervision means being able to hear or see the assistant and children at all times) and that an assistant 18 years of age or older must not be left alone with the children in care for more than two hours a day (unless the assistant meets the criteria for a substitute provider).
22 VAC 40-110-150. Behavior	22 VAC 40-111-160. Attributes for household members.	Required household members 14 years of age and older, including relatives and lodgers, to display emotional stability, be of good character and reputation, and meet the requirements of the background check regulation.	Changed requirements to apply to individuals 14 years of age and older who reside in the family day home.
22 VAC 40-110-1090.2. Maintenance of health information.	22 VAC 40-111-180. Subsequent tuberculosis screening for caregivers and household members.	2. Subsequent evaluations. a. An individual who had a nonsignificant (negative) reaction to an initial tuberculin skin test shall obtain additional screening every two years thereafter. b. An individual who had a significant (positive)	To comply with recommendations from the Virginia Department of Health, the proposed regulation requires the provider to obtain for each caregiver and adult household member a current Report of Tuberculosis Screening (instead of a skin test) every two years from the date of the first screening or more frequently as recommended by a physician or the local health department; within 30 days of a caregiver's or adult

		<p>reaction to a tuberculin skin test and whose physician certifies the absence of communicable tuberculosis shall obtain chest x-rays on an annual basis for the following two years.</p> <p>(1) The individual shall submit statements documenting the date of the chest x-rays and certifying freedom from tuberculosis in a communicable form.</p> <p>(2) The statements shall be signed and dated by a licensed physician, the physician's designee, or an official of a local health department.</p> <p>(3) The statements shall be filed in the individual's record maintained at the family day home.</p> <p>(4) Following the two-year period during which chest x-rays are required annually, additional screening shall be obtained every two years.</p> <p>c. Any individual who comes in contact with a known case of tuberculosis or develops chronic respiratory symptoms shall, within 30 days of exposure or development, receive an evaluation in accordance with subdivision 1 of this section.</p>	<p>household member's coming into contact with a known case of infectious tuberculosis. Until a new screening form is issued, that documents the absence of tuberculosis in a communicable form, the caregiver or adult household member shall not have contact with children. The provider must immediately obtain a new Report of Tuberculosis Screening for any caregiver or adult household member who develops chronic respiratory symptoms of three weeks duration. Until a new screening form is issued documenting the absence of tuberculosis in a communicable form, the caregiver or adult household member shall not have contact with children."</p>
<p>22 VAC 40-110-1100 Request for examination.</p>	<p>22 VAC 40-111-190. Physical and mental health examinations for caregivers and household members.</p>	<p>At the request of the provider or the Department of Social Services, a report of examination by an approved physician shall be obtained when there is an indication that the safety of children in care may be jeopardized by the physical or mental health of a specific</p>	<p>To protect children, for consistency with other Licensing regulations, and for clarity, the section was changed to add that a report may be obtained of examination by a mental health professional when there are indications that a caregiver's or household member's mental health may endanger the health, safety, or well-being of children in care.</p>

<p>22 VAC 40-110-1110 Removal of individual.</p>		<p>individual. Any individual who, upon examination or as a result of tests, shows indication of physical or mental condition or conditions which may jeopardize the safety of children in care: 1. Shall be removed immediately from contact with children and food served to children; and 2. Shall not be allowed contact with children or food served to children until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed statement from the physician.</p>	<p>A caregiver or household member who is determined by a licensed physician or mental health professional to show an indication of a physical or mental condition that may endanger the health, safety, or well-being of children in care or that would prevent the performance of duties must be removed immediately from contact with children and food served to children until the condition is cleared as evidenced by a signed statement from the physician or mental health professional.</p>
	<p>22 VAC 40-111-200. Orientation.</p>		<p>To ensure that other caregivers are familiar with their duties and expectations, the proposed regulation requires licensed providers to provide orientation to assistants and substitute providers within one week of employment. Orientation topics include job responsibilities; required parental notifications; emergency evacuation, relocation, and shelter-in-place procedures; the licensing regulations that relate to their jobs; confidential treatment of information about children and their families; location of emergency numbers, supplies, and the first aid kit; and child abuse and neglect reporting requirements.</p>
<p>22 VAC 40-110-90. Additional training</p>	<p>22 VAC 40-111-210. Annual training.</p>	<p>Six hours of training annually in addition to first aid training.</p>	<p>The proposed regulation increases annual training hours for caregivers from six to 16 clock hours annually, beginning with eight hours when the regulation becomes effective. One year after the regulation becomes effective, required annual training hours will increase to 12; two years after the effective date, the number will increase to 14; and three years after the effective date, the number will increase to 16 hours annually. Research, including that of the National Scientific Council on the Developing Child, indicates that quality early education programs that include highly</p>

			skilled caregivers can enhance a child's cognitive and social development and can help provide the foundation for later school achievement, economic productivity, and responsible citizenship
	22 VAC 40-111-220. Medication administration training.		To comply with § 54.1-3408 N of the Code, the proposed regulation adds requirements for Board of Nursing-approved medication administration training for caregivers in family day homes who choose to administer prescription medication. To protect children, requirements were added to require caregivers in family day homes who choose to administer non-prescription medication to complete the Board of Nursing-approved medication administration training.
22 VAC 40-110-100. Documentation.	22 VAC 40-111-230. Documentation of education and training.	Written documentation of pediatric first aid certification and annual training received by caregivers shall be maintained on file in the family day home for the period of licensure. Written documentation shall include the name of the training session, the date and total hours of the session, and the name of the organization or person who sponsored the training.	Requirements added for documentation of each caregiver's applicable education and programmatic experience, applicable first aid and CPR certification, orientation, annual training, and applicable medication administration training. Added that written documentation of training include the name of the caregiver.
22 VAC 40-110-200. Hazards.	22 VAC 40-111-240. Home maintenance.	The physical facilities and furnishings of the home and grounds shall be kept clean and safeguarded from open and obvious hazards to the health and safety of children, such as but not limited to loose carpeting, lead paints, choking hazards, sharp objects, plastic bags, and poisonous plants accessible to children.	To protect children, requirements for home safety have been expanded and divided into a separate section. Areas and furnishings of the family day home, inside and outside, must be maintained in a clean, safe, and operable condition. Equipment, materials, or furnishings must not be used if recalled or identified by the U.S. Consumer Product Safety Commission as being hazardous.
	22 VAC 40-111-250. Hanging, suffocation, and strangulation		For children's safety, added that items such as window blind or curtain cords, appliance cords, and ropes be kept out of reach of children under five years of age; toys of a certain size be kept from children under three years of age; items

	hazards.		tied across or to cribs and playpens be removed when a child can push up on hands and knees; and hood or neck drawstrings be removed from children's clothing before they use climbing equipment. Latex gloves, balloons, and empty plastic bags large enough to fit over a child's head must be inaccessible to children under five years of age..
22 VAC 40-110-570. Swimming pools. 22 VAC 40-110-580. Maintenance.	22 VAC 40-111-260. Drowning hazards.	Outdoor swimming pools shall be enclosed by safety fences and gates with child-resistant locks and wading pools shall be emptied and stored away when not in use during the normal family day home hours of operation. Any swimming and wading pools shall be set up and maintained according to manufacturer instructions. No home shall maintain any receptacle or pool, whether natural or artificial, containing water in such condition that insects breeding therein may become a menace to the public health.	For children's safety, requirements added to prevent children's access to above-ground pools. Play areas within 30 feet of unfenced in-ground pools, ponds and fountains must be surrounded by a non-climbable barrier such as a fence (current providers have one year to comply). Portable wading pools must be cleaned after each use, emptied and stored when not in use, and not used by children who are not potty trained. Bathtubs, buckets, and other containers of liquid that are accessible to children must be emptied immediately after use in order to eliminate the danger of drowning, particularly for a small child whose head is heavier than his body. Other newly added requirements intended to prevent drowning include a prohibition against children's use of hot tubs, spas and whirlpools, and the requirement that these items be covered with safety covers while children are in care.
22 VAC 40-110-230. Firearms.	22 VAC 40-111-270. Firearms and ammunition.	Firearms shall be stored unloaded and apart from ammunition. Firearms and ammunition shall be stored in a locked area with keys out of reach of children.	Requirements related to storage of firearms and ammunition have been revised to require storage in a locked container, compartment or cabinet, rather than in a locked "area." This change addresses the issue that arose when "area" was considered to be a locked room that was reported to be off limits to children in care. Firearms were stored in bedside tables or chests that made them potentially accessible to children in the event the room was left unlocked in error.
22 VAC 40-110-400 and 410. Fire extinguishers and smoke detectors.			The requirements for smoke detectors and fire extinguishers were deleted, based on advice from the Office of the Attorney General that DSS has no authority to enforce these requirements.
22 VAC 40-110-490. Sharp	22 VAC 40-111-290.	Sharp kitchen utensils shall be placed in an area	To protect children, a requirement was added that "other sharp objects" also be

kitchen utensils.	Sharp objects.	inaccessible to children or in a cabinet or drawer with child-resistant latches, unless being used by the care giver or with children under close supervision, e.g., when children are using these objects in planned activities.	inaccessible to children. The phrase “or in a cabinet or drawer with child-resistant latches” was deleted. Having the two options (either inaccessible or in a cabinet or drawer) has caused inconsistency in enforcement.
	22 VAC 40-111-300. Body fluid contamination.		To prevent the spread of infectious diseases, the following has been added: “When any surface has been contaminated with body fluids, it shall be cleaned and sanitized.”
	22 VAC 40-111-310. Machinery.		To protect children, a requirement was added that power tools and machinery in operation be inaccessible to children. A child in a licensed family day home was killed when struck by a riding lawn mower.
<p>22 VAC 40-110-330. Safety plugs.</p> <p>22 VAC 40-110-340. Electrical devices</p> <p>22 VAC 40-110-390. Liquid fuel heaters.</p> <p>22 VAC 40-110-470. Fire hazards.</p>	22 VAC 40-111-320. Fire safety and shock prevention.	<p>Electrical outlet safety plugs shall be placed on all outlets that are accessible to children.</p> <p>Portable liquid fuel burning heaters shall not be used in areas accessible to children when children are in care.</p> <p>If there are open and obvious fire hazards, the local fire prevention officials may be contacted by the department's representative. The provider shall comply with the requirements or recommendations made by the fire prevention officials to eliminate fire hazards.</p>	<p>Amended regulation to require that safety plugs must be on outlets and surge protectors accessible to children under five years of age. Added that small electrical appliances must be unplugged when not in use. Due to the danger of carbon monoxide poisoning, the proposed regulation prohibits the use of unvented fuel burning heaters when children are in care.</p> <p>The regulation has been revised to require that open and obvious hazards and the absence of fire extinguishers and smoke detectors be reported to local fire officials in accordance with the 2000 Memorandum of Agreement between DSS and the Department of Housing and Community Development and according to a guidance document issued in 2002.</p>
22 VAC 40-110-440. Telephones.	22 VAC 40-111-330. Telephones.	The home shall have a working telephone. If the telephone number is unlisted, providers shall ensure that parents and the department have been given the unlisted number in writing. When changes of telephone numbers occur, providers	To ensure providers can always contact emergency responders and parents, a requirement was added that the home have a land-line telephone.

		shall inform the department within 48 hours and parents within 24 hours of the new telephone number.	
22 VAC 40-110-290. Bathrooms.	22 VAC 40-111-340. Bathrooms.	The home shall have indoor running water and a bathroom. The bathroom shall be easily accessible to children two years of age and older. The bathroom shall be kept clean and have a working toilet and sink, tissue, and soap. Either paper towels or individually assigned cloth towels shall be provided. If cloth towels are used, they shall be laundered when soiled and at least once a week.	Clarified that the home must have an indoor bathroom. For infection control purposes, the proposed regulation no longer allows the use of cloth towels because there is no way to prevent children from using each others' towels. Added that bathroom must contain "toilet" tissue and "liquid" soap.
22 VAC 40-110-320. Water supply.	22 VAC 40-111-350. Water supply.	When water is not obtained from a municipal supply and the house is not connected to a municipal sewer line, the water supply and septic system of the family day home shall be inspected and approved by the local health official or a private laboratory if there are open and obvious symptoms of water or sewage system problems, such as evidence of cloudy, murky, or muddy water, or sewage back up. Family day homes that are connected to a municipal water supply and sewer line and have open and obvious symptoms of water or sewage system problems shall have the problems corrected within a time frame agreed upon by the department and the provider.	For infection control purposes, added a requirement for the home to have an ample supply of hot and cold water available to children and caregivers for hand washing. To prevent scalding, a requirement was added that "Hot water at taps available to children shall be maintained within a range of 105°F to 120°F."
22 VAC 40-110-500. Fans.	22 VAC 40-111-410. Electric fans.	Electrical fans used in rooms accessible to children shall have	For children's safety, added that portable fans must be securely mounted out of the reach of children and equipped with

		protective shields and be placed out of the reach of children.	a mesh guard.
22 VAC 40-110-240. Barriers.	22 VAC 40-111-430. Stairs.	Protective barriers including but not limited to safety gates shall be installed securely at the top or bottom of open stairways on the floor where the stairways are accessible to children under two years of age and children over two years of age who are not developmentally ready to climb or descend stairs without supervision. Gates used shall meet the current American Society for Testing Materials standards for juvenile products. All interior and exterior stairways with over three risers that are used by children shall have handrails within the normal grasp of the children or banisters with vertical posts between the handrails and each step, which can be safely grasped by children.	To prevent conflict with the Uniform Statewide Building Code, the regulation was reworded as follows, "Children under two years of age and children over two years of age who are not developmentally ready to climb or descend stairs without supervision shall not have access to stairs. Accordion expansion gates and pressure-mounted gates shall not be used as protective barriers at stair openings. Children over age two shall not have access to stairs without barriers or guardrails to prevent a child's climbing over, falling through, or becoming entrapped."
22 VAC 40-110-250. Stairways.			
22 VAC 40-110-210. Ventilation.	22 VAC 40-111-450. Doors and windows.	When windows and doors are used for ventilation, they shall be screened securely.	For children's safety, added that closet door latches must be such that children can open the door from inside the closet; Bathroom door locks must be designed to permit opening of the locked door from the outside with a readily accessible opening device.
22 VAC 40-110-270. Doors.		Doors with clear glass panels that reach within 18 inches of the floor shall be clearly marked with decorative objects such as pictures, art work, or decals near the child's eye level to prevent accidents.	Added that the markings be at the eye level of children in care.
22 VAC 40-110-1280. Food surfaces.	22 VAC 40-111-460. Animals.	Family pets shall not be allowed on any surfaces where food is prepared or	To further protect children, requirements were added that the provider must have documentation of the current rabies vaccination; animals that have shown

<p>22 VAC 40-110-1290. Health.</p>		<p>served.</p> <p>Any pet or animal present at the home, indoors or outdoors, shall be in good health, and show no evidence of carrying any disease.</p>	<p>aggressive behavior may not be kept in the home or on the grounds; certain disease-carrying animals are prohibited in areas accessible to children during the hours the day care home is in operation; animals' toys, food dishes, and water dishes must be inaccessible to children; and animal excrement must be removed promptly, disposed of properly, and, if indoors, the soiled area cleaned.</p>
<p>22 VAC 40-110-1300. Immunization.</p>		<p>Dogs or cats, where allowed, shall be immunized for rabies and shall be treated for fleas, ticks, or worms as needed.</p>	
<p>22 VAC 40-110-1310. Supervision.</p>		<p>Care givers shall closely supervise children when children are exposed to animals at the home. Children shall be instructed on safe procedures to follow when in close proximity to these animals, e.g., not to provoke or startle them or remove their food. Potentially dangerous animals shall not be in contact with children.</p>	
<p>22 VAC40-110-1320. Litter boxes.</p>		<p>Animal litter boxes shall not be located in areas accessible to children. All animal litter must be removed promptly from children's areas and disposed of properly.</p>	
<p>22 VAC40-110-1330. Sanitation of hands.</p>		<p>Care givers' and children's hands shall be washed after handling animals or animal wastes.</p>	
<p>22 VAC40-110-190. Smoke-free environment.</p>	<p>22 VAC 40-111-470. Smoking and prohibited substances.</p>	<p>The licensee shall ensure that a smoke-free environment is provided in rooms accessible to children while children are in care.</p>	<p>To protect children from second-hand smoke, the proposed regulation prohibits smoking indoors while children are in care, in a vehicle, or outdoors in areas occupied by children.</p> <p>To ensure the safety of children, requirements were added that no caregiver may be under the influence of</p>

			medication that impairs functioning, alcohol, or illegal drugs.
22 VAC 40-110-620. Play materials.	22 VAC 40-111-480. Play equipment and materials.	A sufficient supply and variety of developmentally appropriate play materials, toys, and equipment shall be available and accessible to children in care	To clarify the types of toys and activities that are to be provided, the proposed regulation states that equipment and materials must be appropriate to the age, size, ability and interests of the children and requires the licensee to provide arts and crafts materials, texture materials, construction materials, music and sound materials, books, social living equipment and manipulative equipment. To ensure children's safety, it was added that equipment used by children must be assembled, maintained, and used according to the manufacturer's instructions; and must be non-toxic, free of hazards, and clean. To prevent the spread of disease, toys mouthed by children must be cleaned and sanitized daily.
	22 VAC 40-111-490. Indoor slides and climbing equipment.		For children's safety, a requirement was added that indoor slides and climbing equipment over 18 inches high must not be over bare floor.
	22 VAC 40-111-500. Outdoor play area and equipment.		For children's safety and based on recommendations from the U.S. Consumer Product Safety Commission, requirements were added that a barrier surround outdoor play areas located within 30 feet of hazards (current providers have one year to comply with this requirement); the highest rung or platform of outdoor climbing equipment must not be over 6' for school age children and 4' for preschool children. Stationary outdoor equipment must not be installed over concrete, asphalt, or other hard surface; must be placed at least 6' from other play structures or obstacles; and be firmly anchored with materials covering the ground supports. "S" hooks must be tightly closed; swings must have flexible seats (unless a caregiver stays within arm's length to protect other children); above-ground openings must be of a size to prevent head entrapment; no ropes, loops, or hanging apparatus that could tighten upon a child may be used; equipment with moving parts that could pinch or crush a child's hand or fingers is

			prohibited unless the moving parts are covered by guards; platforms and ramps over 30" high must have been designed with guardrails or barriers to prevent falls; sandboxes must be covered when not in use; and trampolines may not be used while children are in care.
22 VAC 40-110-530. Rest areas.	22 VAC 40-111-510. Rest areas.	Each child shall be provided with a designated crib, cot, rest mat, or bed for resting or napping. Rest mats that are used shall have at least an inch of cushioning and be sanitized at least weekly and as needed.	For children's safety, added that upper levels of double-deck beds must not be used and occupied cribs, rest mats, and beds must be at least 3' from any heat-producing appliance, and at least 12" from each other.
22 VAC 40-110-540. Cribs.	22 VAC 40-111-520 Cribs.	<p>Cribs that meet the current Consumer Product Safety Commission standards for cribs, 16 CFR 1508 and 1509, shall be provided for children from birth through 12 months of age and for children over 12 months of age who are not developmentally ready to sleep on a cot, rest mat, or bed.</p> <ol style="list-style-type: none"> 1. Double decker cribs and play pens shall not be used; 2. Crib slats shall be no more than 2³/₈ inches apart; 3. Crib sides shall always be up and the fastenings secured when a child is in the crib, except when the care giver is giving the child immediate attention; 4. Mattresses shall fit snugly next to the crib so that no more than two fingers can be inserted between mattresses and the crib; and 5. Cribs with end panel cut-outs shall be of a size that prevents head entrapment. 	For children's safety, added that mesh-sided cribs or cribs that have been recalled shall not be used. Use of crib-bumper pads is also prohibited.
22 VAC 40-110-530. Rest	22 VAC 40-111-530.	1. Clean linen suitable to the season, and assigned	For children's comfort, added that cribs, cots, rest mats, and beds used by

<p>areas.</p>	<p>Linens.</p>	<p>for individual use, shall be used each time children sleep on beds of family members. 2. Clean linen suitable to the season shall be used and washed at least weekly and as needed.</p>	<p>children other than infants shall have top and bottom covers or a one-piece covering that is open on three sides; cribs used by infants must have a tight-fitting bottom cover.</p> <p>To prevent suffocation, no soft bedding or toys may used under or around infants; children under two years may not use pillows or filled comforters.</p> <p>For sanitation purposes, pillows must be assigned for individual use and covered with pillowcases; mattresses must be covered with waterproof material that can be cleaned and sanitized.</p>
<p>22 VAC 40-110-550. Infant seats.</p>	<p>22 VAC 40-111-540. Infant and toddler equipment.</p>	<p>High chairs and infant carrier seats shall meet the American Society for Testing Materials (ASTM) standards for juvenile products and when occupied by a child a safety strap shall be used and securely fastened.</p>	<p>For clarification and for added protection to children, the proposed regulation states that "infant carrier seat, swings, strollers, feeding and activity tables, and high chairs shall be used according to the manufacturer's instructions and when occupied by a child, a safety strap shall be used and securely fastened."</p>
	<p>22 VAC 40-111-550. Play pens.</p>		<p>For children's safety, the proposed regulation adds requirements for play pen construction based on recommendations of the U.S. Consumer Product Safety Commission. Play pens must have the sides up and fastenings secured (except when the caregiver is giving the child immediate attention); must be cleaned and sanitized at least daily; not be occupied by more than one child; not have hazards such as torn mesh sides or broken hinges; not contain any pillows, filled comforters, large toys or other objects that could be used as a stepping stool; not be used by children weighing 30 pounds or more; and not be used by children 35" tall or taller.</p>
<p>22 VAC 40-110-650. Supervision (General). 22 VAC 40-</p>	<p>22 VAC 40-111-560. Supervision.</p>	<p>Children shall be supervised by a caregiver at all times. Children shall not be left alone in the care of an assistant under 18 years of age while in care. Children shall be</p>	<p>For the safety and protection of children, the proposed regulation strengthens the supervision requirements by adding that a caregiver must be present on site and providing direct care and supervision of each child at all times. Direct care and supervision means awareness of and responsibility for each child including being near enough to intervene if</p>

<p>110-710. Level of supervision.</p>		<p>supervised in a manner which ensures that the care giver is aware of what the children are doing at all times and can promptly assist or redirect activities when necessary. In deciding how closely to supervise children, providers shall consider the following:</p> <ol style="list-style-type: none"> 1. Ages of the children; 2. Individual differences and abilities; 3. Layout of the house and play area; 4. Neighborhood circumstances or hazards; and 5. Risk activities children are engaged in. 	<p>needed and closely monitoring sleeping infants. Caregivers must actively supervise each child during outdoor play and only school age children may play outside when the caregiver is indoors.</p>
<p>22 VAC 40-110-120. Staffing.</p>	<p>22 VAC 40-111-570. Determining need for additional caregiver.</p>	<p>A. In determining the need for an assistant, the following fixed adult-to-child ratios shall be maintained for children receiving care. This ratio includes the provider's own and resident children under eight years of age:</p> <ol style="list-style-type: none"> 1. 1:4 children from birth through 15 months of age; 2. 1:5 children from 16 months through 23 months of age; 3. 1:8 children from two years through four years of age; 4. 1:16 children from five years through nine years of age; and 5. Children who are 10 years of age and older shall not count in determining the ratio of adults to children for staffing purposes. <p>B. When children are in mixed age groups, the provider shall apply the following point system in determining the need for an assistant. Each care giver shall not exceed 16</p>	<p>Children in family day homes are in mixed age groups, so for clarity the ratios were deleted from the proposed regulation and only the point system will be used. To ensure the adequate supervision of children, the proposed regulation also deletes the exception that allowed providers to exceed the point maximum at certain periods of time.</p>

<p>22 VAC 40-110-610. Activity opportunities.</p>		<p>throughout the day and shall be based on the physical, social, emotional and intellectual needs of the children.</p> <p>Daily age appropriate activities shall include:</p> <ol style="list-style-type: none"> 1. Opportunities for alternating periods of indoor active and quiet play depending on the ages of the children; 2. Opportunities for vigorous outdoor play daily, depending upon the weather, the ages, and the health of the children; 3. Opportunities for one or more regularly scheduled rest or nap periods. Children unable to sleep shall be provided time and space for quiet play; 4. Opportunities for children to learn about themselves, others and the world around them; 5. Opportunities for children to exercise initiative and develop independence in accordance with their ages; and 6. Opportunities for structured and unstructured play time and provider- directed and child-initiated learning activities. 	<p>children.</p>
<p>22 VAC 40-110-690. Movement of sleeping infants.</p>	<p>22 VAC 40-111-590. Requirements for sleeping and resting.</p>	<p>An infant who falls asleep in a play space other than his own sleeping space shall be moved promptly to his designated sleeping space if the safety or comfort of the infant is in question.</p>	<p>To reduce the danger of SIDS, added that infants must be placed on their backs to sleep or nap unless otherwise ordered in writing by the child's physician.</p> <p>For the comfort of children, also added that school age children shall be allowed to nap if needed, but not forced to do so.</p>
<p>22 VAC 40-110-700. Stimulation.</p>	<p>22 VAC 40-111-600. Daily activities for infants and toddlers.</p>	<p>Stimulation shall be regularly provided for infants in a variety of ways including, but not limited to, being held,</p>	<p>To enhance the development of children, the proposed regulation adds requirements for infants and toddlers to be provided with opportunities to interact with caregivers and other children in</p>

		cuddled, talked to, and played with by the family day home provider or assistant.	order to stimulate language development, to play with a wide variety of safe, age-appropriate toys; to receive individual attention from caregivers; to engage in activities to develop motor skills; and to spend no longer than 30 minutes of consecutive time in confining equipment (except to eat).
22 VAC 40-110-640. Television.	22 VAC 40-111-610. Television, computers, videos and video games.	Television shall be used with discretion and not as a substitute for planned activities. The amount of time children watch television and the type of programs viewed shall be monitored closely by care givers.	To ensure that children are involved in more stimulating activities, use of media such as television, videos, computers, etc. is limited to a total of two hours per day and limited to programs, etc. that are suitable for children. Other activities must be made available to children during television or video viewing.
22 VAC 40-110-130. Determination of staffing level.	22 VAC 40-111-620. Care of a child with special needs	Providers and parents shall determine a recommendation for the level of staffing necessary to care for, supervise, and protect a child with special needs. The department's representative makes the final determination of staffing and the determination is reviewed annually by all parties.	Proposed regulation requires a written recommendation from a professional who has evaluated or treated the child as to the child's needs. The provider must ensure the environment is appropriate and that a caregiver only performs procedures for which he has the proper training, experience, etc. A separate area for privacy for diapering, dressing and other personal care procedures must be provided for any child above age three who has special needs.
22 VAC 40-110-850. Time out.	22 VAC 40-111-630. Behavioral guidance.	When time out is used as a discipline technique, it shall be used sparingly and be brief and appropriate to the child's developmental level and circumstances. The child who is separated from the group shall be in a safe, lighted, well-ventilated place and shall be within hearing and vision of the provider or substitute provider. The child shall not be left alone inside or outside of the home while separated from the group. Note: If time out is enforced by a caregiver, it shall not exceed one minute for each year of the child's age. Time out shall not be used with infants.	The proposed regulation also prohibits the use of time out for toddlers (children up to 24 months of age).

<p>22 VAC 40-110-830. Prohibited behavior.</p>	<p>22 VAC 40-111-640. Forbidden actions.</p>	<p>The following behavior shall be prohibited as methods of discipline by all care givers: 1. Corporal punishment, including hitting, spanking, beating, shaking, pinching, and other measures that produce physical pain; 2. Forcing, withdrawing, or threatening to force or withdraw food, rest, or bathroom opportunities; 3. Abusive or profane language; 4. Any form of public or private humiliation, including threats of physical punishment; and 5. Any form of emotional abuse, including rejecting, terrorizing, or corrupting a child.</p>	<p>For clarity in the proposed regulation, the various sections were combined into one section and reworded to be consistent with forbidden actions in the regulation for licensed child day centers.</p>
<p>22 VAC 40-110-840. Physical restraint.</p>		<p>Children shall not be physically restrained except as necessary to ensure their own safety or that of others, and then only for as long as is necessary for control of the situation.</p>	
<p>22 VAC 40-110-860. Confinement.</p>		<p>No child, for punishment or any other reason, shall ever be confined in any space that the child cannot open, such as closets, locked rooms, latched pantries, or containers.</p>	
<p>22 VAC 40-110-870. Punishment by children.</p>		<p>The provider or substitute provider shall not give a child authority to punish another child nor shall the provider consent to a child punishing another child.</p>	
<p>22 VAC 40-110-880. Toileting accidents.</p>		<p>Children shall not be punished for toileting accidents.</p>	

<p>22 VAC 40-110-1170. Accident reports.</p> <p>22 VAC 40-110-1180. Records.</p> <p>22 VAC 40-110-1400. Communication with parents.</p>	<p>22 VAC 40-111-650. Parent notifications.</p>	<p>Major injuries to the head, other parts of the body, and major accidents shall be reported immediately to the child's parent or parents. Minor injuries and accidents shall be reported to the child's parent or parents on the same day they occur.</p> <p>An injury or accident sustained by a child while at the family day home that required first aid or medical attention shall be recorded in the child's record. Information recorded shall include the date and nature of injury or accident, action taken and verification of parental notification.</p> <p>The provider shall agree to share information daily with parents about their children's health, development, behavior, adjustment, or needs</p>	<p>To comply with requirements of § 63.2-1809.1 of the Code, added that parents must be notified if there no longer is liability insurance coverage in force on the operation of the family day home. To strengthen authority and rights of parents, added requirements for the provider to notify the parent when a substitute provider will be caring for the children; when persistent behavioral problems are identified and any disciplinary steps taken. Also added that the provider must notify the parent immediately when the child has a head injury or serious injury that requires emergency medical or dental treatment, has an adverse reaction to medication; has been administered medication incorrectly, is lost or missing, or has died. Added that the parent must be notified the same day whenever first aid is administered to the child; the provider must inform parents of any changes in the home's emergency preparedness and response plan, of anytime the child is to be taken off the premises of the family day home, and of the whereabouts of the child as soon as possible if emergency evacuation or relocation is necessary,</p>
<p>22 VAC 40-110-720. Pool supervision.</p>	<p>22 VAC 40-111-660. Swimming or wading activities; supervision.</p>	<p>When children are permitted to swim and wade, a care giver shall be present at all times and able to supervise the children and respond immediately to emergencies. A minimum of two care givers shall be present and able to supervise the children when three or more children are in the water, with the exclusion of wading pools.</p>	<p>To decrease the risk of drowning, the proposed regulation requires that the point system for determining the need for an extra caregiver be maintained while children are swimming or wading. Written parental permission must be obtained annually for swimming or wading activities. Before a child is allowed in water above his shoulders, a written statement must be obtained from the parent advising of the child's swimming skills. Caregivers must have a system for accounting for all children in the water and outdoor swimming is allowed only during daylight hours.</p> <p>If children are in water over 2' deep, an individual certified in basic water safety, community water safety, water safety instruction, or lifeguarding shall be on duty supervising the children. The certification must be from an organization such as the American Red Cross, the YMCA, or the Boy Scouts.</p>

<p>22 VAC 40-110-1140. Exclusion.</p>	<p>22 VAC 40-111-670. Exclusion of sick children.</p>	<p>Unless otherwise approved by a child's health care professional, a child shall be excluded from the family day home if the child exhibits the following symptoms:</p> <ol style="list-style-type: none"> 1. An oral body temperature of 101°F or greater or an auxiliary (armpit) temperature of 100°F or greater; or 2. Recurrent vomiting or diarrhea; or 3. Symptoms of a communicable disease as delineated in the current Communicable Disease Chart recommendation for the exclusion of sick children. 	<p>Following recommendations of the American Academy of Pediatrics, the American Public Health Association, and the Maternal and Child Health Bureau of the Health Resources and Services Administration, the list of excludable conditions was changed to include: both fever and behavior change, symptoms of severe illness, diarrhea; vomiting two or more times in 24 hours, or symptoms of a communicable disease listed in the Virginia Department of Health's communicable disease chart.</p>
<p>22 VAC 40-110-740. Diapering steps.</p> <p>22 VAC 40-110-970. Sanitation of hands.</p> <p>22 VAC 40-110-980. Handling of foods.</p> <p>22 VAC 40-110-1330. Sanitation of hands.</p>	<p>22 VAC 40-111-680. Hand washing.</p>	<p>Care givers shall wash their hands with soap or germicidal cleansing agents and water after each diaper change and after helping a child with toileting.</p> <p>Children's hands shall be washed with soap and water before eating meals or snacks.</p> <p>Care givers' hands shall be washed with soap or germicidal cleansing agent and water before handling or serving food. Care givers shall use sanitary practices when handling and preparing foods.</p> <p>Care givers' and children's hands shall be washed after handling animals or animal wastes.</p>	<p>To prevent the spread of disease, the proposed regulation adds that caregivers are to wash their hands with liquid soap and warm running water, wash when their hands are dirty, before feeding or helping children with feeding, after contact with any body fluids, after handling raw eggs or meat. Also added that children's hands are to be washed when they are dirty, after toileting or diapering, and after contact with any body fluids.</p>
<p>22 VAC 40-</p>	<p>22 VAC 40-111-690.</p>	<p>When a child's clothing or</p>	<p>To prevent the spread of disease, the proposed regulation adds that the</p>

<p>110-730. General.</p> <p>22 VAC 40-110-740. Diapering steps.</p>	<p>Diapering and toileting.</p>	<p>diaper becomes wet or soiled, it shall be changed promptly.</p> <p>The following steps shall be used for diapering:</p> <ol style="list-style-type: none"> 1. Diapers shall be changed on a nonabsorbent surface. Children shall not be left unattended during diapering. 2. During each diaper change the child's genital area shall be thoroughly cleaned with a moist disposable wipe or a moist, clean individually assigned cloth, if the child is allergic to disposable wipes. 3. Soiled disposable diapers and wipes shall be discarded in a lined container, with a tight-fitting lid, operated by a foot pedal (step can). Soiled cloth diapers and wipes shall be put in a plastic bag and stored in individually labeled diaper bags to be taken home. The container and diaper bags shall be kept clean, free of soil build up and odor, and shall not be accessible to children. 4. Care givers shall wash their hands with soap or germicidal cleansing agents and water after each diaper change and after helping a child with toileting. 5. The diaper changing surface shall be cleaned with soap and water, and disinfected by lightly spraying with a germicidal or water and 	<p>diapering surface be separate from the kitchen and food preparation areas, and be non-absorbent and washable. Requirements were added for handling soiled cloth diapers in the same way as soiled disposable diapers.</p> <p>To strengthen authority and rights of parents, a requirement was added for consultation with the parent before beginning toilet training. For the child's safety and comfort, caregivers must respond promptly to a child's request for toileting assistance, toilet training is to be relaxed and pressure free; and a toilet chair or adult-sized toilet with a platform or steps and adapter seat must be available to each child being toilet trained.</p>
---	---------------------------------	--	--

<p>22 VAC 40-110-750. Toilet chairs.</p> <p>22 VAC 40-110-770. Privacy.</p>		<p>chlorine bleach solution, i.e., one tablespoon of bleach to one quart of water. The disinfectant shall be spread evenly with a paper towel over the diaper changing surface and the surface shall be allowed to air dry after each diaper change. When a bleach and water solution is used, it shall be made fresh daily and stored out of the reach of children.</p> <p>6. Surfaces used for children's activities or meals shall not be used for changing diapers.</p> <p>Toilet chairs shall be emptied promptly, rinsed and disinfected after each use.</p> <p>Children five years of age and older shall be permitted privacy when toileting.</p>	
<p>22 VAC 40-110-1220. Dosing and consent.</p>	<p>22 VAC 40-111-700. Medication; general.</p>	<p>Prescription and nonprescription drugs shall only be given to a child as directed by the prescription label or by the instructions on the original container and when the provider has the parent's written consent.</p>	<p>For the safety of children, the proposed regulation adds that medication is to be given according to the home's written medication policies (a provider is not required to administer medications). The parent's authorization for medication administration expires or must be renewed after 10 work days (unless written authorization for long-term administration is provided by the child's physician and parent). When an authorization expires, the parent must be notified that it must be picked up within 14 days or renewed. Medications not picked up by parents within 14 days must be destroyed. These requirements are consistent with the safety requirements in licensed child day centers.</p>
	<p>22 VAC 40-111-710. Prescription medication.</p>		<p>To comply with § 54.1-3408 N of the Code, requirements were added that the family day home only administer prescription medication that would normally be administered by a parent or guardian; caregivers administer only drugs dispensed from a pharmacy and</p>

			maintained in the original, labeled container; and administer drugs only to the child identified on the prescription label in accordance with the prescriber's instructions for the dosage, frequency, and manner of administration.
22 VAC 40-110-1240. Labeling.	22 VAC 40-111-720. Non-prescription medication.	Any over-the-counter medication brought into the home for use by a specific child shall be kept in the original container and shall be labeled with the following information: the date; the child's first and last names; and specific, legible instructions for administration and storage.	To protect children, the proposed regulation adds that non-prescription medication must be in the original container with the manufacturer's direction label attached, given only at the dose, duration, and method of administration specified on the manufacturer's label for the age or weight of the child, and not be used beyond the expiration date of the product. These requirements are consistent with safety requirements for licensed child day centers.
22 VAC 40-110-1230. Storage. 22 VAC 40-110-1250. Usage and precautions.	22 VAC 40-111-730. Storage of medication.	All medicines shall be stored in an area inaccessible to children. All medicine shall be returned to parents when no longer needed. Prescription medicines shall be dated and kept in the original container with the prescription label and the child's first and last names attached. All medications, refrigerated or unrefrigerated, shall be kept out of reach of children, shall be kept in an orderly fashion, and shall be stored at the proper temperature. Medication shall not be used beyond the date of expiration.	For the protection of children, the proposed regulation was reworded to require that medications for children in care be stored separately from medications for household members and caregivers; when needed, medication be refrigerated; when medication is stored in a refrigerator used for food, the medications be stored together in a container or in a clearly defined area away from food; medication, except for those prescriptions designated otherwise by a written physician's order, including refrigerated medication and medications for caregivers and household members, be kept in a locked place using a safe locking method that prevents access by children, and if a key is used, the key be inaccessible to the children. These requirements are consistent with safety requirements for licensed child day centers.
22 VAC 40-110-1260. Records.	22 VAC 40-111-740. Medication records.	The provider shall keep a medication record on each child which shall include: 1. A statement acknowledging parental consent to administer medication to the child; 2. The amount and name of medication administered to the child;	For added safety, the proposed regulation also requires that the medication record contain the name of the child, any adverse reactions and any medication error. These requirements are consistent with safety requirements for licensed child day centers.

		<p>3. The day and time the medication was administered to the child; and</p> <p>4. The name of the provider or adult assistant administering the medication.</p> <p>(Assistants under the age of 18 shall not administer medication.)</p>	
	<p>22 VAC 40-111-750. Basic care items.</p>		<p>This section was added to incorporate the instructions from a guidance document issued in May 2000. The proposed regulation requires that when sunscreen, diaper ointment, oral teething medication, and insect repellent are used, the parent must provide written authorization noting any known adverse reaction, the product must be in the original container (labeled with the child's name if provided by the parent), manufacturer's instructions for application must be followed, and parents must be informed immediately of any adverse reaction. Sunscreen must have a minimum SPF of 15. The product must be inaccessible to children. Caregivers without medication administration training may apply the product unless it is a prescription medication. The product may not be used beyond its expiration date.</p>
<p>22 VAC 40-110-1270. First aid supplies.</p>	<p>22 VAC 40-111-760. First aid and emergency medical supplies.</p>	<p>First aid supplies shall be readily accessible to the care giver or care givers and inaccessible to children. The required first aid supplies which shall be available are:</p> <ol style="list-style-type: none"> 1. Scissors; 2. Tweezers; 3. Sterile nonstick gauze pads; 4. Adhesive or bandage tape; 5. Band-aids, assorted sizes; 6. Sealed packages of alcohol wipes or an antiseptic cleaning agent; 7. An anti-bacterial ointment; 8. Thermometer; 9. Chemical cold pack, if 	<p>The proposed regulation was reworded to make the requirements for the contents of the first aid kit consistent with the requirements for licensed child day centers.</p> <p>A digital thermometer is required due to the danger of using mercury thermometers with children. Based on recommendations from the American Academy of Pediatrics and the American Heart Association, the requirement for syrup of ipecac was deleted and for a home located more than an hour's travel time from a health care facility, activated charcoal preparation was added.</p>

		ice pack not available; 10. First aid instructional manual or cards; 11. Insect bite or sting preparation; 12. One triangular bandage; 13. Syrup of Ipecac, to be used only when instructed by the regional poison control center or children's physician and before the expiration date; 14. Flexible roller or stretch gauze; 15. Disposable nonporous gloves; and 16. Eye dressing or pad.	
22 VAC 40-110-460. Flashlights and radios.	22 VAC 40-111-770. Emergency flashlights and radios.	An operable flashlight and battery operated radio shall be kept in a designated area and available at all times.	Based on recommendations from the Virginia Department of Emergency Management and the National Weather Service, requirements were added for a battery-operated weather band radio and extra batteries.
22 VAC 40-110-1380. Emergencies.	22 VAC 40-111-780. Emergency information.	The emergency contact information listed in subdivision 1 e of 22 VAC 40-110-1360 [emergency contact information] shall be made available to a physician, hospital, or emergency care unit in the event of a child's illness or injury.	For emergency preparedness purposes, the proposed regulation requires the provider to annually review the child's emergency contact information with the parent.
22 VAC 40-110-450. Posted numbers.	22 VAC 40-111-790. Posted telephone numbers.	The following telephone numbers shall be posted in a visible area close to the telephone: 1. A physician or hospital; 2. An ambulance or rescue squad service; 3. The local fire department; 4. The local police department; NOTE: If there is a generic emergency number such as, but not limited to, 911 operable in	For clarity, the proposed regulation was reworded to require the posting of a 911 or local dial number for police, fire, and emergency medical personnel. The requirements for posting the number of a physician or hospital are deleted because each child would have his own physician and in an emergency, emergency responders would be called rather than a hospital. For the safety of children in an emergency, the proposed regulation adds a requirement for posting the telephone number of a responsible person for emergency back-up care.

		<p>the locality, that number may be posted instead of the above numbers.</p> <p>5. A regional poison control center.</p>	
<p>22 VAC 40-110-420. Escape plans.</p>	<p>22 VAC 40-111-800. Emergency preparedness and response plan.</p>	<p>There shall be a written posted emergency escape plan in the event of a fire or natural disaster which shall be taught to all care givers and to children in care who are developmentally able to understand.</p>	<p>For children’s safety and based on recommendations from the Virginia Department of Emergency Management, a written emergency preparedness and response plan is required that addresses most likely to occur emergency scenarios; has evacuation, relocation, and shelter-in-place procedures; and includes the provision for a responsible person at least 18 years of age to be available within 10 minutes for emergency back-up care until the children can be picked up by their parents. The provider must review the plan annually, update it as needed, and train each caregiver on the plan within the first week of assuming job responsibilities, at least annually thereafter, and whenever the plan changes.</p>
	<p>22 VAC 40-111-810. Evacuation and relocation procedures.</p>		<p>For children’s safety and based on recommendations from the Virginia Department of Emergency Management, requirements were added for the emergency preparedness and response plan to contain evacuation and relocation procedures that include methods to alert caregivers and emergency responders; primary and secondary routes out of the building; assembly points; relocation sites; methods to ensure all children are evacuated or moved to a relocation site; methods to account for all children at assembly points and relocation site; methods to ensure essential documents, medications, and supplies are taken to the assembly point and relocation site; the method of communication with emergency responders and parents after the evacuation and the method of communication with parents after the relocation.</p>
	<p>22 VAC 40-111-820. Shelter-in-place procedures.</p>		<p>For children’s safety and based on recommendations from the Virginia Department of Emergency Management, requirements were added for the emergency preparedness and response plan to contain shelter-in-place procedures that include methods to alert</p>

			caregivers and emergency responders; designated safe locations; primary and secondary routes to the safe locations; methods to ensure all children are moved to the safe locations; methods to account for all children at the safe locations; methods to ensure essential documents, medications, and supplies are taken to the safe location; the method of communication with emergency responders and parents.
22 VAC 40-110-420. Escape plans. 22 VAC 40-110-430. Evacuation records.	22 VAC 40-111-830. Emergency response drills.	The escape plan shall be practiced with all caregivers and children in care on a monthly basis to the point of exit from the home. Documentation shall be maintained of practiced emergency escape plans, which shall include the date of the event, the number and ages of children involved, and the approximate evacuation time. Records of monthly practiced procedures shall be maintained until the license is renewed.	For children's safety, to comply with the Statewide Fire Prevention Code, and based on recommendations from the Virginia Department of Emergency Management, requirements were added for practicing the emergency evacuation monthly on all shifts that children are in care. Shelter-in-place procedures must be practiced twice per year. Documentation requirements for evacuation drills were added to match those of the Statewide Fire Prevention Code. Shelter-in-place drill documentation requirements were also added. The documentation must be retained for one year.
22 VAC 40-110-1180. Records.	22 VAC 40-111-840. Injury records.	An injury or accident that required first aid or medical attention shall be recorded in the child's record. The information is to include the date, nature of the injury, or accident, action taken and verification of parental notification.	Proposed regulation adds that the record also include: time of the injury, the name of the caregiver present, future actions to prevent recurrence of injury, signatures, and how parents were notified.
22 VAC 40-110-1190. Written reports.	22 VAC 40-111-850. Reports to department.	The provider shall report to the department within 24 hours any accident, injury or illness that occurred while a child was in care which results in death. A written report shall be completed and submitted to the department within five working days. The provider shall report a lost or missing child to the department within 24	To facilitate a prompt investigation, a requirement was added that a serious injury to a child in care must also be reported to DSS with 24 hours.

<p>22 VAC 40-110-1200. Missing children.</p>		<p>hours when it was necessary to seek assistance from local emergency or police personnel.</p>	
<p>22 VAC 40-110-1210. Abuse.</p>	<p>22 VAC 40-111-860. Reports of suspected child abuse or neglect and disease outbreaks</p>	<p>The provider shall verbally notify the local department of social services or call the toll free number for the Bureau of Child Protective Services (1-800-552-7096/TDD) immediately whenever there is reason to suspect that a child has been or is being subjected to any kind of child abuse or neglect by any person.</p>	<p>To comply with § 32.1-37 of the Code, added that the provider must immediately report an outbreak of a disease to the local health department or to the Commissioner of the Virginia Department of Health.</p>
<p>22 VAC 40-110-950. Time schedules.</p>	<p>22 VAC 40-111-870. Meals and snacks; general.</p>	<p>Meals and snacks shall be served in accordance with the times children are in care, which include: 1. Between the hours of 7 a.m. and 6 p.m., breakfast, lunch, and snacks shall be served. 2. Between the hours of 2 p.m. and 10 p.m., an afternoon snack, supper and a bed time snack shall be served. 3. Between the hours of 8 p.m. and 8 a.m. a bed time snack and breakfast shall be served.</p>	<p>To ensure children receive an adequate number of meals and snacks, the proposed regulation clarifies the timing of meals and snacks and adds that children arriving from a half-day morning program who have not had lunch must receive a lunch. For children’s safety, the proposed regulation adds requirements for the sanitary preparation, storage, serving, and transportation of food; and for cleaning of tables and high chair trays after each use.</p>
<p>22 VAC 40-110-890. Food groups; lunch and dinner</p>	<p>22 VAC 40-111-880. Meals and snacks provided by family day home.</p>	<p>Foods served to children for lunch and dinner shall consist of a variety of items selected from each of the following food groups: 1. Meat or meat alternates; 2. Fruits and vegetables; 3. Bread or bread alternates, e.g., pasta, rice, noodles, and cereal; and</p>	<p>For clarity and to make the requirements consistent with those in the child day center regulation, the proposed regulation requires family day homes to follow the most recent, age-appropriate nutritional requirements of a recognized authority such as the Child and Adult Care Food Program of the United States Department of Agriculture (UDSA) and children shall be allowed second helpings of food listed in the child care food program meal patterns.</p>

		4. Milk unless a child is allergic to milk or milk products.	
22 VAC 40-110-890. Food groups; lunch and dinner.	22 VAC 40-111-890. Meals and snacks brought from home.	Providers shall supplement meals from homes that do not meet this standard or inform parents who provide meals from home that meals served to children must consist of a variety of foods from the four food groups	For clarity, the proposed regulation requires providers to provide extra food to children if they bring an inadequate meal or snack from home. For the children's safety, unused portions of food must be discarded by the end of the day or returned to the parent.
22 VAC 40-110-940. Water.	22 VAC 40-111-910. Drinking water and fluids.	Water shall be available for drinking and shall be offered on a regular basis to all children in care.	For children's safety and to make the requirement consistent with that in the child day center regulation, the proposed regulation adds that in environments of 80° or above, children shall be encouraged to drink liquids. To prevent the spread of disease, the regulation requires clean individual drinking cups and prohibits children's sharing common drinking cups.
22 VAC 40-110-960. Menus.	22 VAC 40-111-920. Menus.	When meals are provided by the family day home, menus shall be planned, written, dated and placed or posted at least a day in advance in an area accessible to parents.	The proposed regulation adds that snacks be included in the weekly menu. This is to incorporate the information from a guidance document issued in March 2000. To make the requirement consistent with that in the child day center regulation and to keep parents informed, the proposed regulation requires that any substituted food be listed on the menu.
22 VAC 40-110-990. Infant feedings. 22 VAC 40-110-1000. Formula labeling. 22 VAC 40-110-1010. Formula preparation.	22 VAC 40-111-960. Feeding infants.	Infants shall be fed on demand unless parents provide other written instructions. Infants who cannot hold their own bottles shall be picked up and held when fed. Bottles shall not be propped. Prepared infant formula shall be labeled with the individual child's name and kept in the refrigerator when not in use. If infant formula is heated in a microwave oven, precautions shall be taken to prevent scalding.	For children's safety, the proposed regulation adds that high chairs, infant carrier seats, or feeding tables with fastened safety waist and crotch straps must be used for feeding children under 12 months of age who are not being held; bottles must be labeled with a child's full name and date if more than one infant is in care; refrigerated bottles of prepared formula and breast milk must be discarded after 48 hours; bottles may not be heated in a microwave oven; heated formula and baby food must be shaken or stirred and tested for temperature before being served; a mother must be given access to a private area of the home to facilitate breast feeding. Solid foods may not be given to infants under four months of age without parental consent and must be fed with a spoon with the exception of

		<p>Only refrigerated formula shall be heated. When formula is heated in the bottles, the bottles shall be upright and uncovered. Heating time shall be no more than 30 seconds for four ounce bottles and no more than 45 seconds for eight ounce bottles. After heating and replacing nipples, bottles shall be turned up and down 10 times and the temperature tested by dropping milk on the top of the hand. The temperature of the milk shall be cool on the hand.</p>	<p>finger foods. Baby food must be served from a dish and not the container; food remaining in the dish shall be discarded; opened containers of baby food shall be labeled with the child's name and dated, refrigerated, and discarded after 24 hours of storage.</p>
	<p>22 VAC 40-111-970. Special feeding needs.</p>		<p>For children's safety, the proposed regulation requires food for children with special needs to be of appropriate consistency for any special feeding needs of the child. Necessary and adaptive feeding equipment and techniques must be used for a child with special feeding needs.</p>
<p>22 VAC 40-110-800. [Transportation] General.</p>	<p>22 VAC 40-111-990. Requirements for drivers.</p>	<p>Whenever the provider or assistant transports enrolled children they shall:</p> <ol style="list-style-type: none"> 1. Ensure that any vehicle used to transport children meets the standards set by the Code of Virginia and is equipped with the proper child restraining devices required by law to correspond with the ages of the children being transported; 2. Have a first aid kit, including an ice or chemical cold pack, in the vehicle used for transporting; 3. Have a copy of the parents' written authorization to transport the children; 	<p>For children's safety, the proposed regulation adds that drivers must be 18 years of age, have a valid driver's license, and have a mechanism for making telephone calls to parents and emergency responders.</p>

		<p>4. Have the name, address and phone number of the family day home in the vehicle used for transportation; and</p> <p>5. Have a copy of the children's emergency contact and medical information in their possession.</p>	
	<p>22 VAC 40-111-1000. Requirements for vehicles.</p>		<p>For children's safety and for consistency with the child day center regulation, the proposed regulation adds that vehicles must meet the safety standards set by the Virginia Department of Motor Vehicles, be kept in satisfactory condition, be licensed and insured according to state law, have been manufactured for the purpose of transporting people seated in an enclosed area, and have seats that are attached to the floor.</p>
	<p>22 VAC40-111-1010. Requirements for transportation.</p>		<p>For children's safety, the proposed regulation adds that during transportation, each child must be in an individual car seat or individual and appropriate restraint in accordance with Virginia law; children's arms, legs, and head must remain inside the vehicle; doors must be closed and locked; no child may be left unattended inside or outside a vehicle; and each child must board and leave the vehicle from the curb side of the street.</p>
	<p>22 VAC 40-111-1020. Nighttime care.</p>		<p>For the safety and comfort of children, the proposed regulation adds requirements for providers who offer nighttime care to children. Included are requirements for the rest area, cribs for infants, linens, activities, bedtimes established in consultation with the child's parents, separate sleeping and dressing areas for children of the opposite sex over six years of age. Each child must have a toothbrush and comb or hair brush assigned for individual use. Bath towels and washcloths, when used, must be assigned for individual use and laundered at least weekly. Each child nine months of age and older must have flame-resistant or snug-fitting sleepwear. Each child must have a routine that encourages good personal hygiene</p>

		<p>practices including bathing (if needed) and teeth brushing. Caregivers must remain awake until all children are asleep and sleep on the same floor level as the children in care.</p> <p>A baby monitor must be used if the caregiver is not sleeping in the room with the child or in a room adjacent to the room where the child is sleeping</p>
--	--	---

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

Section 63.2-1734 of the Code mandates the State Board of Social Services to adopt regulations that are designed to ensure that the activities, services, and facilities are conducive to the welfare of children under the control of licensed family day home providers. Through DSS’ collaboration with affected constituents (providers, parents, and Licensing Inspectors), the proposed regulation represents the best alternative to minimize the adverse impact on the small family day home business while ensuring protection of children.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The authority and rights of parents are strengthened by the proposed regulation that adds requirements for the family day home provider to notify the parents about issues involving their children, to obtain written permission for swimming, and to involve the parents more in making decisions about the care their children receive.

The proposed regulation encourages economic self-sufficiency of families by establishing requirements that provide a level of out-of-home care that is safe, healthy, and conducive to the needs of children. Research shows quality child care can provide the foundation for a child’s later school achievement and economic productivity. By increasing the number of annual training hours for a caregiver and requiring a barrier be constructed if the outside play area is within 30 feet of a hazard, this regulation may raise the costs of child care and decrease a family’s disposable income.